This notice does not meet the Department's criteria for significant regulations.

Terence C. Golden,

Assistant Secretary (Administration).

[FR Doc. 84-20027 Filed 7-27-84; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 25, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7316, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0213
Form Number: IRS Form 5578
Type of Review: Extension
Title: Annual Certification of Racial Nondiscrimination for a Private School Except from Federal Income Tax
OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

U.S. Customs Service

OMB Number: 1515-0077
Form Number: Customs Form 7514
Type of Review: Extension
Title: Drawback Notice (Lading/Foreign Trade Zone Transfer)
OMB Number: New
Form Number: ICB Form 143
Type of Review: Existing Collection
Title: Withdrawal for Consumption or Withdrawal for Exportation of Articles Manufactured in Bond.
OMB Reviewer: Judy McIntosh (202) 396-668, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joseph Maty,

Departmental Reports Management Office.

[FR Doc. 84-20056 Filed 7-27-84; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 147
Monday, July 30, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL COMMUNICATIONS COMMISSION

Additional item to be considered at open meeting, Thursday, July 26th

The Federal Communications Commission will consider an additional item on the subject listed below at the Open Meeting scheduled for 9:30 a.m., Thursday, July 26, 1984 at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—3—Title: Fiscal Year 1986 OMB Budget. Summary: The Commission will consider the Managing Director's recommendations for its FY 1986 Budget estimates to be presented to the Office of Management and Budget on September 4, 1985.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission July 25, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider this additional item.

Additional information concerning this item may be obtained from Judith Kurtich, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: July 25, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-20125 Filed 7-26-84; 8:45 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of agenda item from July 26 open meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the July 26, 1984, Open Meeting and previously listed in the Commission's Notice of July 19, 1984.

Agenda, Item No., and Subject

General—2—Title: Establishment of a spectrum utilization policy for the fixed and mobile services' use of certain bands between 947 MHz and 40 MHz; and Digital Termination Systems at 10.6 GHz and 18 GHz. Summary: The Commission will reconsider action taken in the First Report and Order in Docket 82-334 and the Second Report and Order in Docket 79-188 with respect to the 18 GHz channeling plan and technical standards and reaccommodation provisions for displaced private 12 GHz private microwave licensees.

Issued: July 25, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-20126 Filed 7-26-84; 2:49 pm]

BILLING CODE 6712-01-M

3

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR Doc. 84-19971 published on July 27, 1984.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, August 2, 1984, 10:00 a.m.

Pursuant to 11 CFR 3.5(d)(1), the Commission is adding the following matter to the open meeting agenda:

Request for delay of commencement of audit fieldwork—Reagan-Bush '84

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84-20102 Filed 7-26-84; 3:01 pm]

BILLING CODE 6715-01-M

4

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 2:30 p.m., Thursday, August 2, 1984.

PLACE: Board Room 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6970).

MATTERS TO BE CONSIDERED:

Policies Relating to Insurance of Accounts of *De Novo* Institutions
Conversion from Mutual to Stock Form
Prepayment Penalties in Connection with Home Loans

No. 92, July 25, 1984.

J. J. Finn,

Secretary.

[FR Doc. 84-20023 Filed 7-26-84; 10:37 am]

BILLING CODE 6720-01-M

5

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND PLACE: August 3, 1984, 2:30 p.m.

PLACE: 1776 G Street, NW., Washington, D.C., Main Conference Room, Eighth Floor.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Alan B. Hausman, 1776 G Street, NW., P.O. Box 37248, Washington, D.C. 20013, (202) 789-4763.

MATTERS TO BE CONSIDERED:

Closed—Minutes of June 7, 1984 Board of Directors' Meeting
Closed—President's Report
Closed—Financial Report

Date sent to Federal Register: July 26, 1984.

[FR Doc. 84-20158 Filed 7-26-84; 4:06 pm]

BILLING CODE 6720-02-

6

NATIONAL COUNCIL ON THE HANDICAPPED

TIME AND DATE:

9:00 a.m.—5:00 p.m., August 6, 1984
9:00 a.m.—5:00 p.m., August 7, 1984

PLACE: Fairfax Room, Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED:

General Business Including:
Approval of Minutes
Long-Range Plan FY '85
By Law Revisions
Appointment of Committees/Advisors
Presentations:
Rehabilitation International

Note.—Any person requiring an interpreter or other special services, please contact NCH staff no later than August 2, 1984.

CONTACT FOR MORE INFORMATION: Harvey C. Hirschi, Executive Director, NCH, 202-453-3846.

Harvey C. Hirschi,

Executive Director, National Council on the Handicapped.

[FR Doc. 84-20075 Filed 7-26-84; 9:56 am]

BILLING CODE 6820-BS-M

federal register

Monday
July 30, 1984

Part II

Department of Commerce

International Trade Administration

15 CFR Part 330 et al.

Defense Priorities and Allocations System; Final Rule

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 330, 331, 332, 340, 341, 342, 343, 350, 351, 352, 353, and 354

Defense Priorities and Allocations System

AGENCY: Office of Industrial Resource Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: On June 2, 1981, the Department of Commerce requested comments on a proposed rule published in the **Federal Register** (46 FR 29662). The proposal would establish a new Defense Priorities and Allocations System regulation to supersede the regulations of the Defense Materials System and the Defense Priorities System. All substantive comments received as a result of the June 2 publication are discussed below. This rule establishes the final regulation.

In reviewing the previous regulations and in issuing this revised regulation, the objective has been to ensure that the priorities and allocations system is effective, efficient, easy to understand, and properly designed to keep current defense programs on schedule and to support future emergency needs.

EFFECTIVE DATE: This rule is effective August 29, 1984.

ADDRESSES: Iain S. Baird, Director, Priorities and Allocations Division, Room 3876, Office of Industrial Resource Administration, U.S. Department of Commerce, Washington, D.C. 20230. The public record of the proposed rule and this final rule is available at the ITA Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Iain S. Baird, Director, Priorities and Allocations Division, Room 3876, Office of Industrial Resource Administration, U.S. Department of Commerce, Washington, D.C. (202) 377-4506.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 1981, the Department of Commerce requested comments on a proposed rule published in the **Federal Register** (46 FR 29662). The proposal would establish a Defense Priorities and Allocations System (DPAS) to supersede the regulations of the Defense Materials System and the Defense Priorities System.

Interested parties had the opportunity to submit comments on the proposed rule by August 31, 1981. A total of 79 comments were received. Under section 709 of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2159), the Department also consulted with industry representatives, including trade association representatives, and careful consideration was given to their comments. Based on these comments and an editorial review of the entire rule, many sections of the proposed rule are redrafted, certain Subparts are reorganized, several new sections are added, certain provisions are deleted, and numerous editorial changes are made.

Analysis of Comments

Most commentors agreed with the regulatory approach and the organization and presentation of the material as set forth in the proposed rule. Accordingly, the Department has decided to proceed with a final rule in the same format as the proposed rule with the changes discussed below.

In particular, public comments were sought for three provisions in the proposed rule that would permit persons to: (1) combine rated orders with unrated orders; (2) place priority ratings on contracts and orders for needed items in advance of the receipt of a rated order; and (3) reject a rated order if the order is for an item which has not been supplied to the person placing the order within the past two years *unless* certain conditions are met.

Comments were also solicited on whether to modify or discontinue the metalworking machine provisions, the sufficiency and completeness of the definitions, and the adequacy of the controlled materials program as proposed, with special review requested for Schedule II of the proposed rule.

(1) *Combine rated and unrated order quantities.* This provision would permit persons, in certain cases, to combine rated order quantities with unrated order quantities as long as the rated portion is clearly identified. Commentors were concerned with the potential for misuse by the contracting party and the possibility of supplier confusion and increased administrative burden. Some commentors believed the tracking of orders could be more difficult and enforcement problems could be created, especially in the event of a national emergency.

In order to satisfy these concerns, yet, to obtain the cost benefits and efficiencies the proposal offers, the proposed rule was modified to permit persons to place orders for rated and unrated quantities at the same time, provided that the rated order quantities are clearly identified and are also contained in a separate rated order. In addition to identifying clearly the rated order quantities, the combined purchase order must contain a statement that the rated order quantities are also contained in a separate rated order placed in accordance with the regulation. Where practical, the separate rated order must be attached to the larger combined purchase order. Suppliers are obligated to give preferential treatment to only the rated portion of the combined order.

Use of the authority to combine orders is optional and is designed to lower procurement costs for individual firms and their customers, including the government.

(2) *Authority to place priority ratings on orders in advance of receipt of a rated prime contract.* This provision would permit persons, in very specific instances, to request authority to place a priority rating on contracts and orders for needed items in advance of the receipt of a rated prime contract. Commentors were concerned that persons granted such authority might not notify their suppliers of the removal of rating authority, if the prime contract is not ultimately placed by the procuring defense agency.

The Department wishes to make it very clear that each application for priority rating authority in advance of the receipt of a rated prime contract will receive very close scrutiny. No authority will be granted without the sponsorship of the involved Delegate Agency, for example, the Department of Defense, and a full review by the Department of Commerce of (1) the need for the authority, (2) the probability that the prime contract will be awarded, and (3) the impact of the resulting rated orders on suppliers and on procurements for other authorized programs. The use of the priority rating authority, once granted, will be carefully monitored to include removal of the rating authority if the rated prime contract is not ultimately issued. In addition, the regulation requires that if the rated prime contract is not awarded, all suppliers must be notified promptly that the priority rating is cancelled.

Commerce believes that the occasional use of this procedure can be instrumental in keeping certain national defense programs on schedule, especially those involving the procurement of long lead time items. For such items, the annual procurement authorization that exists for most government purchases is not timely enough to ensure delivery when needed. This provision can, in some cases, compensate for that situation by permitting customers to secure a position in a production schedule appropriate to an important defense program. Accordingly, Commerce retains this provision in the regulation.

(3) *Rejection of a rated order.* This provision would permit a supplier to reject a rated order if the order is for an item which has not been supplied to the purchaser within the past two years, *unless* the purchaser makes certain certifications to the supplier. This proposal was intended to prevent the purchaser from using rated orders to disrupt an industry-implemented allocation system in times of short supply. Opinion on this proposal was divided. Those favoring the provision generally viewed it as protection of their longstanding customer relationships. Those opposed believed that the provision would weaken the regulation's mandatory acceptance requirements and make it more cumbersome to obtain items for national defense programs in time of short supply, especially during a national emergency.

Commerce is persuaded that the necessity of ensuring the timely acceptance of rated orders outweighs the possible delay to filling rated orders that would be caused by this provision. Thus, the discretion to reject rated orders by suppliers based on whether they have supplied the item during the past two years is deleted from the final rule.

However, the Department will consider a request for adjustment (§ 350.80), on a case-by-case basis, by a supplier or a customer who believes that rated orders are being placed or accepted in a manner not intended by the regulation and, thus, causing the supplier or customer to suffer an undue hardship not shared generally by others in similar situations or circumstances.

(4) *Special rules for metalworking machines.* A majority of the several commentors who addressed the need for the metalworking machine provisions were in favor of retaining the provisions. Based on those comments and the experiences of past mobilizations, the Department agrees that there is a continuing need for these special rules and retains them in the final regulation.

(5) *Sufficiency and completeness of the definitions provided.* Several commentors pointed out certain deficiencies in some of the definitions. However, no major problems were raised. Based on these comments and an editorial review, the Department is making changes to certain definitions in § 350.8 of the final rule. This includes incorporating into § 350.8, controlled material technical definitions for "Distributor", "Further Conversion", and "Minimum Mill Quantity", which appeared in § 350.31 of the proposal. Definitions applicable to each specific controlled material are now found in Schedule III.

Modified or added definitions include:

- "Controlled materials"
- "Controlled materials suppliers"
- "Lead time"
- "Official action"
- "Rated order"
- "Set-aside"

Deleted are the definitions for:

- "Capital equipment", as this term is included in a new definition for "Production equipment"
- "Directive" and "Letter of Understanding", as these terms are defined as "Official actions" and explained in the regulation (§§ 350.62 and 350.63)

(6) *The controlled materials program.* Most of the comments on the controlled materials program concerned technical corrections and adjustments to the data included in Schedules II, III, and IV of the proposed rule. These changes are incorporated into the final rule. In addition, for ease of reference, the nickel alloys data were separated from the copper data and put into a new Schedule V.

(7) *Compliance provisions.* Some commentors were concerned with the broad access by the Department to books, records, documents, or other writings and information during the conduct of an audit or other investigation. It was suggested that such access be limited to materials that are "directly pertinent" to the purpose of the audit or investigation.

Section 705(a) of the Defense Production Act of 1950, as amended, requires that the investigatory authority given to the President be utilized only after the scope and purpose of the investigation, inspection, or other inquiry is defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. Section 350.71 of the final rule fully implements these requirements. Therefore, the suggested change is not necessary. In addition, during an audit, investigation, inspection, or other inquiry, it is the policy of Commerce to interrupt a person's operations to the least extent possible consistent with its enforcement and administrative responsibilities under the Defense Production Act and the regulation.

One comment highlighted a recent U.S. Supreme Court ruling concerning government inspections of business premises over the refusal of a person to permit such access. Accordingly, the Department adds a new § 350.72, to provide a procedure for securing compulsory process to gain access when it is refused.

To provide additional details on the priorities and allocations system, attached to the final rule at Appendix I are copies of the Delegations of Authority from the Department of Commerce to the Departments of Defense and Energy, the General Services Administration, and the Federal Emergency Management Agency. Appendix II contains copies of Interagency Memoranda of Understanding between the Department of Commerce and the Departments of Agriculture, Energy and the Interior. Appendix III provides a copy of Form ITA-999—Request for Special Priorities Assistance. Appendix IV contains a copy of the Memorandum of Understanding on Priorities and Allocations Support Between the U.S. and Canada.

Non-Substantive and Editorial Changes

Many sections of the proposed rule are edited, and several Subparts are reorganized to eliminate duplication and achieve greater clarity. In addition, editorial and technical corrections are made throughout the regulation.

Rulemaking Requirements

The Department has made certain determinations with respect to the following rulemaking requirements:

Classification—The DPAS regulation is a revision of a regulatory system that has been in existence for over 30 years. Its administration, implementation, jurisdiction, and impact will be similar to the regulatory system it replaces. Accordingly, this regulation is not a "major rule" pursuant to Executive Order 12291 (46 FR 13193; Feb. 19, 1981), "Federal Regulation". Therefore, a "Regulatory Impact Analysis" is not required as there will be: (1) No major monetary effect on the economy; (2) no major increase in costs or prices; and (3) no significant adverse effects on competition (domestic or foreign), employment, investment, productivity or innovation.

Regulatory Analysis—The DPAS regulation is not subject to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) because, under section 709 of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2159), it is not subject to the informal rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553).

Information Collection—The DPAS regulation is consistent with the purpose of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*). Recordkeeping requirements imposed by this regulation have been cleared by the Office of Management and Budget and are assigned OMB Number 0625-0107.

List of Subjects in 15 CFR Part 350

Administrative practice and procedure, Aluminum, Authority delegations (Government agencies), Business and industry, Canada, Civil defense, Copper, Energy, Government contracts, Investigations, National defense, Nickel alloys, Penalties, Steel, Strategic and critical materials.

Issued: June 20, 1984.

John A. Richards,

Director, Office of Industrial Resource Administration.

Accordingly, the Department of Commerce amends 15 CFR Chapter III, Subchapter B, by removing Parts 330–332, 340–343, and 351–354, and revises Part 350 to read as follows:

PART 330—BASIC RULES OF DEFENSE MATERIALS SYSTEM. (DMS REG. 1) [REMOVED]

PART 331—SELF AUTHORIZATION PROCEDURE FOR MRO NEEDED TO FILL MANDATORY ACCEPTANCE ORDERS. (DMS REG. 1, DIR. 1) [REMOVED]

PART 332—CONTROLLED MATERIALS PRODUCERS AND DISTRIBUTORS. (DMS REG. 1, DIR. 2) [REMOVED]

PART 340—IRON AND STEEL. (DMS ORDER 1) [REMOVED]

PART 341—NICKEL ALLOYS. (DMS ORDER 2) [REMOVED]

PART 342—ALUMINUM. (DMS ORDER 3) [REMOVED]

PART 343—COPPER AND COPPER-BASE ALLOYS. (DMS ORDER 4) [REMOVED]

PART 351—OPERATIONS OF THE PRIORITIES AND ALLOCATION SYSTEM BETWEEN CANADA AND THE UNITED STATES. (DPS REG. 2) [REMOVED]

PART 352—COMPLIANCE AND ENFORCEMENT PROCEDURES. (DPS REG. 3) [REMOVED]

PART 353—METALWORKING MACHINES. (DPS ORDER 1) [REMOVED]

PART 354—NICKEL. (DPS ORDER 2) [REMOVED]

PART 350—DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM

Authority: Sections 101–103, 701–707, 709, and 713 of the Defense Production Act of 1950, Pub. L. 81–774, 64 Stat. 798, as amended (50 U.S.C. app. 2071–2073, 2151–2157, 2159, and 2163); Executive Order 10480, 18 FR 4939, 3 CFR 1949–1953 Comp., p. 962, as amended; Executive Order 11912, 41 FR 15825, 3 CFR 1976 Comp., p. 114, as amended; Executive Order 12148, 44 FR 43239, 3 CFR 1979 Comp., p. 393, as amended; Defense Mobilization Order (DMO) 3, 44 CFR 322; DMO–12, 44 CFR 329; and DMO–13, 44 CFR 330.

Subpart A—Purpose

§ 350.1 Purpose of this regulation.

(a) Title I of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*) (Defense Production Act), authorizes the President: to require the priority performance of contracts and orders necessary or appropriate to promote the national defense over other contracts or orders; to allocate materials and facilities as necessary or appropriate to promote the national defense; and to require the allocation of, or the priority performance under contracts or orders relating to, supplies of materials and equipment in order to assure domestic energy supplies for national defense needs.

(b) This regulation consolidates, simplifies, and revises the Defense Materials System and the Defense Priorities System regulations, directions, and orders. The Defense Priorities and Allocations System (DPAS) helps to keep current national defense programs on schedule and provides an operating system that can be rapidly expanded in a national emergency.

(c) To aid in understanding and using the DPAS, an overview of its major provisions is incorporated into this regulation as Subpart B—Overview. The full text of the DPAS is found in Subparts D through L.

Subpart B—Overview

§ 350.2 Introduction.

(a) The Federal Emergency Management Agency authorizes certain national defense programs for priorities and allocations support. For example, military aircraft production, ammunition, and certain programs which maximize domestic energy supplies are "authorized programs." A complete list of currently authorized programs is provided at Schedule I.

(b) To ensure the preferential treatment of certain contracts and orders for authorized programs, the Department of Commerce administers the DPAS.

(c) Commerce has delegated authority to place priority ratings on contracts or orders necessary or appropriate to promote the national defense to the government agencies that issue such contracts or orders. Schedule I includes a list of agencies delegated this authority. Copies of the Delegations of Authority are provided at Appendix I. They set forth the authorities delegated and those retained by Commerce.

§ 350.3 Priority ratings and rated orders.

(a) Rated orders are identified by a priority rating consisting of the rating—either DX or DO—and a program identification symbol. Rated orders take preference over all unrated orders as necessary to meet required delivery dates. Among rated orders, DX rated orders take preference over DO rated orders. Program identification symbols indicate which authorized program is involved with the rated order. For example, A1 identifies defense aircraft programs and A7 signifies defense electronic programs. The program identification symbols, in themselves, do not connote any priority.

(b) Persons receiving rated orders must give them preferential treatment as required by this regulation. This means a person must accept and fill a rated order for items that the person normally supplies. The existence of previously accepted unrated or lower rated orders is not sufficient reason for rejecting a rated order. Persons are required to reschedule unrated orders if they conflict with performance against a rated order. Similarly, persons must reschedule DO rated orders if they conflict with performance against a DX rated order.

(c) All rated orders must be scheduled to the extent possible to ensure delivery by the required delivery date.

(d) Persons who receive rated orders must in turn place rated orders with their suppliers for the items they need to fill the orders. This provision ensures that suppliers will give priority treatment to rated orders from contractor to subcontractor to suppliers throughout the procurement chain.

(e) Persons may place a priority rating on orders only when they are in receipt of a rated order, have been explicitly authorized to do so by the Department of Commerce or a Delegate Agency, or are otherwise permitted to do so by this regulation.

§ 350.4 Controlled materials.

(a) Federal central management of certain key materials, designated "controlled materials", has been essential in the past to effective industrial mobilizations. Accordingly, special rules are maintained in peacetime to provide an operating mechanism that can be rapidly expanded during a national emergency to meet increased defense and other essential needs. Currently, the controlled materials are steel, copper, aluminum, and nickel alloys.

(b) Under the controlled materials program, the Department of Commerce requires suppliers of controlled materials to accept rated orders up to a specified quantity of material during a given period of time. This quantity is called a "set-aside". This provision ensures that the material will be available when rated orders are placed. In addition, the system ensures that controlled materials producers are treated equitably, for after the set-aside quantity levels have been reached, controlled materials producers may generally reject additional rated orders. These orders would then be filled by other controlled materials producers who had not exhausted their set-aside requirement.

(c) In time of national emergency, the level and scope of the controlled materials program may be greatly expanded to ensure the necessary allocation of materials and in order to direct general industrial activity toward supporting the requirements of the emergency.

(d) Certain other items, in addition to the controlled materials, have critical importance to national defense programs. From time-to-time, special rules, similar to those for controlled materials, may be needed to manage those materials.

(e) If items become scarce and critical and the requirements of the national defense cannot be met without creating a significant dislocation in the civilian market place so as to create appreciable hardship, special rules may be established under section 101(b) of the Defense Production Act to control the general distribution of such items in the civilian market.

§ 350.5 Special priorities assistance.

(a) The DPAS is designed to be largely self-executing. However, from time-to-time production or delivery problems will arise. In this event, special priorities assistance is available from Commerce and from the Delegate Agencies.

(b) Special priorities assistance is available for any reason consistent with this regulation. Generally, special priorities assistance is provided to expedite deliveries, resolve delivery conflicts, place rated orders, locate suppliers, or to verify information supplied by customers and vendors. Special priorities assistance may also be used to request rating authority for items not automatically ratable.

§ 350.6 Official actions.

When necessary, Commerce takes specific official actions to implement or enforce the provisions of this regulation and to provide special priorities assistance. Such actions may include the issuance of: Rating Authorizations, Directives, Letters of Understanding, Set-asides, and compliance documents (Administrative Subpoenas, Demands for Information, and Inspection Authorizations).

§ 350.7 Compliance.

(a) Compliance with the provisions of this regulation and official actions is required by the Defense Production Act. Violators are subject to criminal penalties.

(b) Any person who places or receives a rated order should be thoroughly familiar with, and must comply with, the provisions of this regulation.

Subpart C—Definitions

§ 350.8 Definitions.

The following definitions pertain to all sections of the regulation:

"Authorized program"—a program approved by the Federal Emergency Management Agency for priorities and allocations support under the Defense Production Act.

"Construction"—the erection, addition, extension, or alteration of any building, structure, or project, using materials or products which are to be an integral and permanent part of the building, structure, or project. Construction does not include maintenance and repair.

"Controlled materials"—the various shapes and forms of steel, copper, aluminum, and nickel alloys, whether new, remelted, rerolled or redrawn, as specified in Schedule II, and as defined in Schedule III.

"Controlled materials suppliers"—all persons, including producers, distributors, brokers, importers and exporters engaged in the sale or resale of controlled materials.

"Delegated Agency"—a government agency authorized by delegation from the Department of Commerce to place priority ratings on contracts or orders needed to support authorized programs.

"Defense Production Act"—the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.).*

"Distributors of controlled materials"—those persons (including warehouse operators or jobbers, but not retailers) engaged in stocking controlled materials at locations regularly maintained for their sale or resale in the form or shape as received, or after performing such operations as cutting to length or shape, slitting, shearing, or sorting and grading.

"Further conversion"—the further processing of controlled materials by a processor of such materials.

"Item"—any raw, in process, or manufactured material, article, commodity, supply, equipment, component, accessory, part, assembly, or product of any kind, technical information, process, or service.

"Lead time"—the period of time specified in this regulation for the receipt of orders for controlled materials by a supplier in advance of the first day of the month in which shipment is required.

"Maintenance and repair and operating supplies (MRO)"—

(a) "Maintenance" is the upkeep necessary to continue any plant, facility, or equipment in working condition.

(b) "Repair" is the restoration of any plant, facility, or equipment to working condition when it has been rendered unsafe or unfit for service by wear and tear, damage, or failure of parts.

(c) "Operating supplies" are any items carried as operating supplies according to a person's established accounting practice. Operating supplies may include hand tools and expendable tools, jigs, dies, fixtures used on production equipment, lubricants, cleaners, chemicals and other expendable items.

(d) MRO does not include items produced or obtained for sale to other persons or for installation upon or attachment to the property of another person, or items required for the production of such items; items needed for the replacement of any plant, facility, or equipment; or items for the improvement of any plant, facility, or equipment by replacing items which are still in working condition with items of a new or different kind, quality, or design.

"Minimum mill quantity"—the minimum quantity of a controlled material that may be obtained from a producer for shipment at any one time to any one destination.

"Official action"—an action taken by Commerce under the authority of the Defense Production Act and this regulation. Such actions include the issuance of Set-asides, Rating Authorizations, Directives, Letters of Understanding, Demands for Information, Inspection Authorizations, and Administrative Subpoenas.

"Person"—any individual, corporation, partnership, association, or any other organized group of persons, and includes any agency of the United States Government or any other government.

"Production equipment"—any item of capital equipment used in producing materials or furnishing services that has a unit acquisition cost of $2,500 or more, an anticipated service life in excess of one year, and the potential for maintaining its integrity as a capital item.

"Rated order"—a prime contract, a subcontract, or a purchase order in support of an authorized program issued in accordance with the provisions of this regulation.

"Set-aside"—the amount of an item for which a supplier must reserve order book space in anticipation of the receipt of rated orders.

Subpart D—Industrial Priorities

§ 350.10 Delegation of authority.

(a) The priorities and allocations authorities given to the President in Title I of the Defense Production Act have been delegated to the Director of the Federal Emergency Management Agency (FEMA), who, in turn, has delegated these authorities with respect to industrial resources to the Secretary of Commerce. FEMA retains the overall policy and coordinating functions for this delegated authority.

(b) Within the Department of Commerce, these responsibilities have been assigned to the Office of Industrial Resource Administration. The Department of Commerce has authorized the Delegate Agencies to assign priority ratings to orders for items needed for authorized programs. Copies of these Delegations of Authority are provided at Appendix I. They set forth the authorities delegated and those retained by Commerce.

§ 350.11 Priority ratings.

(a) *Levels of Priority.* (1) There are two levels of priority established by this regulation, identified by the rating symbols "DO" and "DX".

(2) All DO rated orders have equal priority with each other and take preference over unrated orders. All DX rated orders have equal priority with each other and take preference over DO rated orders and unrated orders. (For resolution of conflicts among rated orders of equal priority, see § 350.14(c).)

(3) In addition, a Directive issued by Commerce takes preference over any DX rated order, DO rated order, or unrated order, as stipulated in the Directive. (For a full discussion of Directives, see § 350.62.)

(b) *Program identification symbols.* Program identification symbols indicate which authorized program is being supported by a rated order. The list of authorized programs and their identification symbols are listed in Schedule I. For example, A1 identifies defense aircraft programs and A7 signifies defense electronic programs. Program identification symbols, in themselves, do not connote any priority.

(c) *Priority ratings.* A priority rating consists of the rating symbol—DO and DX—and the program identification symbol, such as A1, B2, or H6. Thus, a contract for the production of an aircraft will contain a DO–A1 or DX–A1 priority rating. A contract for a radar set will contain a DO–A7 or DX–A7 priority rating.

§ 350.12 Elements of a rated order.

Each rated order must include:

(a) The appropriate priority rating (e.g. DO–A1, DX–A4, DO–H1);

(b) A required delivery date or dates. The words "immediately" or "as soon as possible" do not constitute a delivery date. A "requirements contract" bearing a priority rating may contain no specific delivery date or dates and may provide for the furnishing of items from time-to-time or within a stated period against specific purchase orders or "calls". Such "calls" must specify a required delivery date or dates and are to be considered as rated as of the date of their receipt by the supplier and not as of the date of the original "requirements contract";

(c) The signature of an individual authorized to sign rated orders for the person placing the order. The signature certifies that the rated order is authorized under this regulation and that the requirements of this regulation are being followed; and

(d) A statement that reads in substance:

This is a rated order certified for national defense use, and you are required to follow all the provisions of the Defense Priorities and Allocations System regulation (15 CFR Part 350).

§ 350.13 Acceptance and rejection of rated orders.

(a) *Mandatory acceptance.* (1) Except as otherwise specified in this section, a person shall accept every rated order received and must fill such orders regardless of any other rated or unrated orders that have been accepted.

(2) A person shall not discriminate against rated orders in any manner such as by charging higher prices or by imposing different terms and conditions than for comparable unrated orders.

(b) *Mandatory rejection.* Unless otherwise directed by Commerce:

(1) A person shall not accept a rated order for delivery on a specific date if unable to fill the order by that date. However, the person must inform the customer of the earliest date on which delivery can be made and offer to accept the order on the basis of that date. Scheduling conflicts with previously accepted lower rated or unrated orders are not sufficient reason for rejection under this section.

(2) A person shall not accept a DO rated order for delivery on a date which would interfere with delivery of any previously accepted DO or DX rated orders. However, the person must offer to accept the order based on the earliest delivery date otherwise possible.

(3) A person shall not accept a DX rated order for delivery on a date which would interfere with delivery of any previously accepted DX rated orders, but must offer to accept the order based on the earliest delivery date otherwise possible.

(c) *Optional rejection.* Unless otherwise directed by Commerce, rated orders may be rejected in any of the following cases as long as a supplier does not discriminate among customers:

(1) If the person placing the order is unwilling or unable to meet regularly established terms of sale or payment;

(2) If the order is for an item not supplied or for a service not performed;

(3) If the order is for an item produced, acquired, or provided only for the supplier's own use for which no orders have been filled for two years prior to the date of receipt of the rated order. If, however, a supplier has sold some of these items, the supplier is obligated to accept rated orders up to that quantity or portion of production, whichever is greater, sold within the past two years;

(4) If the person placing the rated order, other than the U.S. Government, makes the item or performs the service being ordered;

(5) If the rated order is for a controlled material in an amount below the minimum mill quantity established in Schedule II, and the person placing the order is not willing to buy the minimum quantity;

(6) If the rated order is for a controlled material and is not received by the controlled materials producer within the time frame specified in Schedule I;

(7) If the applicable set-aside has been reached or would be exceeded by acceptance, except that a DX order must be accepted without regard for such set-aside;

(8) If acceptance of a rated order or performance against a rated order would violate any other regulation, official action, or order of the Department of Commerce issued under the authority of the Defense Production Act [See § 350.75].

(d) *Customer notification requirements.* (1) A person must accept or reject a rated order in writing within ten working days after receipt of a DO rated order and within five working days after receipt of a DX rated order. The person must give reasons in writing for the rejection.

(2) If a person has accepted a rated order and later discovers that, due to circumstances beyond the person's control, deliveries will be delayed, the person must notify the customer immediately, give the reasons for the delay, and advise of a new shipment date. If notification is given verbally, written confirmation must be provided within five working days.

§ 350.14 Preferential scheduling.

(a) A person must schedule operations, including the acquisition of all needed production items, in a timely manner to satisfy the delivery requirements of each rated order. Modifying production or delivery schedules is necessary only when required delivery dates for rated orders cannot otherwise be met.

(b) DO rated orders must be given production preference over unrated orders, if necessary to meet required delivery dates, even if this requires the diversion of items being processed or ready for delivery against unrated orders. Similarly, DX rated orders must be given preference over DO rated orders and unrated orders.

Examples: If a person receives a DO rated order with a delivery date of June 3 and if meeting that date would mean delaying production or delivery of an item for an unrated order, the unrated order must be delayed. If a DX rated order is received calling for delivery on July 15 and a person has a DO rated order requiring delivery on June 2 and operations can be scheduled to meet both deliveries, there is no need to alter production schedules to give any additional preference to the DX rated order.

(c) If a person cannot fill all the rated orders of equal priority status received on the same day, the person must accept those orders which can be filled which have the earliest delivery dates. For example, the person must accept order A requiring delivery on December 15 before accepting order B requiring delivery on December 31. For those orders which cannot be filled on time, the supplier must inform the customer within the time limits set forth in § 350.13(d), of the earliest date on which delivery can be made and offer to accept the order on the basis of that date.

(d) If a person is unable to purchase needed production items in time to fill a rated order by its required delivery date, the person must fill the rated order by using inventoried production items. A person who uses inventoried items to fill a rated order may replace those items with the use of a rated order as provided in § 350.17(b).

§ 350.15 Extension of priority ratings.

(a) A person must use rated orders with suppliers to obtain items needed to fill a rated order. The person must use the priority rating indicated on the customer's rated order, except as otherwise provided in this regulation or as directed by the Department of Commerce.

For example, if a person is in receipt of a DO–A3 rated order for a navigation system and needs to purchase semiconductors for its manufacture, that person must use a DO–A3 rated order to obtain the needed semiconductors.

(b) The priority rating must be included on each successive order placed to obtain items needed to fill a customer's rated order. This continues from contractor to subcontractor to supplier throughout the entire procurement chain.

§ 350.16 Changes or cancellations of priority ratings and rated orders.

(a) The priority rating on a rated order may be changed or cancelled by:

(1) An official action of the Department of Commerce; or

(2) Written notification from the person who placed the rated order (including a Delegate Agency).

(b) If an unrated order is amended so as to make it a rated order, or a DO, rating is changed to a DX rating, the supplier must give the appropriate preferential treatment to the order as of the date the change is received by the supplier.

(c) An amendment to a rated order that significantly alters a supplier's original production or delivery schedule shall constitute a new rated order as of the date of its receipt. The supplier must accept or reject the amended order according to the provisions of § 350.13.

(d) The following amendments do not constitute a new rated order: a change in shipping destination; a reduction in the total amount of the order; an increase in the total amount of the order which has negligible impact upon deliveries; a minor variation in size or design; or a change which is agreed upon between the supplier and the customer.

(e) If a person no longer needs items to fill a rated order, any rated orders placed with suppliers for the items, or the priority rating on those orders, must be cancelled.

(f) When a priority rating is added to an unrated order, or is changed or cancelled, all suppliers must be promptly notified in writing.

§ 350.17 Use of rated orders.

(a) A person must use rated orders to obtain:

(1) Items which will be physically incorporated into other items to fill rated orders, including that portion of such items normally consumed, or converted into scrap or by-products, in the course of processing;

(2) Containers or other packaging materials required to make delivery of the finished items against rated orders;

(3) Services, other than contracts of employment, needed to fill rated orders; and

(4) MRO needed to produce the finished items to fill rated orders. However, for MRO, the priority rating used must contain the program identification symbol H7 along with the rating symbol contained on the customer's rated order. For example, a person in receipt of a DO–A3 rated order, who needs MRO, would place a DO–H7 rated order with the person's supplier.

(b) A person may use a rated order to replace inventoried items (including finished items) if such items were used to fill rated orders, as follows:

(1) The order must be placed within 90 days of the date of use of the inventory.

(2) A DO rating symbol and the program identification symbol indicated on the customer's rated order must be used on the order (except as provided in § 350.31(d)—Controlled materials program identification symbols). A DX rating symbol may not be used even if the inventory was used to fill a DX rated order.

(3) If the priority ratings on rated orders from one customer or several customers contain different program identification symbols, the rated orders may be combined. In this case, the program identification symbol H1 must be used (i.e., DO–H1) (not applicable to controlled materials producers).

(c) A person may combine DX and DO rated orders from one customer or several customers if the items covered by each level of priority are identified separately and clearly. If different program identification symbols are indicated on those rated orders of equal priority, the person must use the program identification symbol H1 (i.e., DO–H1 or DX–H1), except as provided in § 350.31(d) (Controlled materials program identification symbols).

(d) *Combining rated and unrated orders.* (1) A person may combine rated and unrated orders provided that the rated quantities are identified separately and are also contained in a separate rated order which conforms to the requirements of § 350.12 (Elements of a rated order). In addition to identifying clearly the rated quantities, the combined purchase order must contain a statement that the rated quantities are contained in a separate rated order placed in accordance with this regulation. Wherever possible, the separate rated order must be physically attached to the combined purchase order. A supplier must give preferential treatment to the rated quanitities of the combined order, if necessary. A supplier may not use the authorities of this regulation to give preferential treatment to the unrated portion.

(2) Any supplier who believes that rated and unrated orders are being combined in a manner contrary to the intent of this regulation or in a fashion that causes undue or exceptional hardship may submit a request for adjustment or exception under § 350.80.

(e) A person may place a rated order for the minimum commercially procurable quantity even if the quantity needed to fill a rated order is less than that minimum. However, a person must combine rated orders as provided in paragraph (c) of this section, if possible, to obtain minimum procurable quantities.

(f) A person is not required to place a priority rating on an order for less than $5,000 provided that delivery can be obtained in a timely fashion without the use of the priority rating.

§ 350.18 Limitations on placing rated orders.

(a) *General limitations.* (1) A person may not place a DO or DX rated order unless entitled to do so under this regulation.

(2) Rated orders may not be used to obtain:

(i) Delivery on a date earlier than needed;

(ii) A greater quantity of the item than needed, except to obtain a minimum procurable quantity. Separate rated orders may not be placed solely for the purpose of obtaining minimum procurable quantities on each order;

(iii) Items in advance of the receipt of a rated order, *except* as specifically authorized by Commerce (see § 350.51(c) for information on obtaining authorization for a priority rating in advance of a rated order); or

(iv) Any of the following items unless specific priority rating authority has been obtained from a Delegate Agency or Commerce:

(A) Items for plant improvement, expansion or construction, unless they will be physically incorporated into a construction project covered by a rated order; and

(B) Production or construction equipment or items to be used for the manufacture of production equipment. [For information on requesting priority rating authority, see § 350.53.]

(b) *Jurisdictional limitations.* (1) The priorities and allocations authority for certain items has been delegated under Executive Order 10480, as amended, to other agencies, and, thus, the provisions of this regulation are not applicable to them. These items include:

(i) Petroleum, gas, solid fuel, and electric power and all other forms of energy (Department of Energy);

(ii) Food and the domestic distribution of farm equipment and commercial fertilizer (Department of Agriculture);

(iii) Civil transportation and the movement of persons and property by all modes (Department of Transportation);

(iv) Minerals (Department of Interior);

(v) Water (Department of Defense—U.S. Army Corps of Engineers);

(vi) Housing facilities (Department of Housing and Urban Development);

(vii) Health facilities (Department of Health and Human Services); and

(viii) Radioisotopes, stable isotopes, source material, and special nuclear material, produced in Government-owned plants or facilities operated by or for Department of Energy (Department of Energy).

(2) The jurisdiction of the Department of Commerce and the Departments of Energy, Agriculture, and the Interior over certain specific items included in the categories listed above has been clarified by Interagency Memoranda of Understanding. Copies of these Memoranda are provided for information at Appendix II.

(3) The following items under the jurisdiction of Commerce are currently excluded from the rating provisions of this regulation; however, these items are subject to Commerce Directives. These excluded items are:

Communication services
Copper raw materials (as defined in Schedule III)
Crushed stone
Gravel
Sand
Scrap
Slag
Steam heat, central
Waste paper

Subpart E—Industrial Priorities for Energy Programs

§ 350.20 Use of priority ratings.

(a) Section 101(c) of the Defense Production Act authorizes the use of priority ratings for projects which maximize domestic energy supplies.

(b) Projects which maximize domestic energy supplies include those which maintain or further domestic energy exploration, production, refining, and transportation; maintain or further the conservation of energy; or are involved in the construction or maintenance of energy facilities.

§ 350.21 Application for priority rating authority.

(a) For projects believed to maximize domestic energy supplies, a person may request priority rating authority for scarce, critical and essential supplies of materials and equipment by submitting DOE Form PR 437 to the Department of Energy. Blank applications and further information may be obtained from the Technical Information Center, Department of Energy, P.O. Box 62, Oak Ridge, Tennessee 37830, or from the Procurement and Assistance Management Directorate, Department of Energy, Attn: MA 932, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

(b) On receipt of the application, the Department of Energy will:

(1) Determine if the project maximizes domestic energy supplies; and

(2) Find whether the materials or equipment involved in the application are critical and essential to the project.

(c) If the Department of Energy notifies Commerce that the project maximizes domestic energy supplies and that the materials or equipment are critical and essential, Commerce must find whether the items in question are scarce and whether there is a need to use the priorities and allocations authorities.

(1) Scarcity implies an unusual difficulty in obtaining the material or equipment in a time frame consistent with the timely completion of the energy project. Among the factors to be used in making the scarcity finding will be the following:

(i) Value and volume of material or equipment shipments;

(ii) Consumption of material and equipment;

(iii) Volume and market trends of imports and exports;

(iv) Domestic and foreign sources of supply;

(v) Normal levels of inventories;

(vi) Rates of capacity utilization;

(vii) Volume of new orders; and

(viii) Lead times for new orders.

(2) In finding whether there is a need to use the priorities and allocations authorities, Commerce will consider alternative supply solutions and other measures.

(d) If Commerce does not find that the items of material or equipment are scarce, it will not proceed to analyze the need to use the priorities and allocations authorities.

(e) Commerce will inform the Department of Energy of the results of its analysis. If Commerce has made the two required findings, it will authorize the Department of Energy to grant the use of a priority rating to the applicant.

(f) Schedule I includes a list of authorized programs to support the maximization of domestic energy supplies. A Department of Energy regulation setting forth the procedures and criteria used by the Department of Energy in making its determination and findings is published in 10 CFR Part 216.

Subpart F—The Controlled Materials

§ 350.30 Management of the controlled materials.

(a) The controlled materials are steel, copper, aluminum, and nickel alloys in the shapes and forms listed in Schedule II and defined in Schedule III. These materials are basic industrial resources necessary for both authorized defense programs and for general industrial activity. Federal management of these four materials assures the timely availability of the materials to meet current authorized program requirements; assures the equitable distribution of requirements among the suppliers of the materials; and provides a flexible and expandable system capable of directing general economic and industrial activity during times of emergency.

(b) Before controlled materials can be used for authorized programs, the Delegate Agencies must obtain specific approval, known as an allotment, from the Federal Emergency Management Agency (FEMA). Accordingly, the Delegate Agencies submit to FEMA requirements for the controlled materials necessary to support their authorized programs. After reviewing the available supply of the materials and other national security, economic and policy considerations, FEMA approves the use of specific quantities of controlled materials by issuing allotments to each Delegate Agency. (Special controlled materials provisions applicable to the Delegate Agencies are found in the Delegations of Authority and the U.S.-Canadian Memorandum of Understanding appended to this regulation.)

(c) To assure the timely availability of controlled materials, the Department of Commerce manages their supply and distribution by requiring producers and distributors of controlled materials to set-aside or reserve space in their order books for the receipt of rated orders. This process is described in greater detail in the following section.

§ 350.31 Specific rules for controlled materials suppliers and users.

(a) *Rated orders.* Rated orders are used to obtain controlled materials needed for authorized programs. Such orders must comply with the requirements of § 350.12 (Elements of a rated order). In addition, a rated order for controlled materials placed with a producer must be in sufficient detail to permit entry on mill schedules.

(b) *Set-asides.* (1) Controlled materials suppliers are issued set-asides by type and shape of controlled material as provided in the following paragraphs. Each supplier is required to accept all rated orders received up to the set-aside level. The supplier may reject DO rated orders after the set-aside quantity has been filled except that the supplier must accept all DX rated orders regardless of the set-aside level.

(2) A person who has had a DO rated order rejected because a set-aside has been filled, must attempt to place the rated order with other controlled materials suppliers whose set-asides are not filled. If still unable to place the rated order, the person should request special priorities assistance (see Subpart H).

(3) *Steel controlled materials.* (i) A set-aside is applicable to each steel controlled materials producer who receives a written set-aside notification from Commerce.

(ii) Any steel controlled materials producer who has not received a set-aside notification must accept, in accordance with the provisions of this regulation, all rated orders received, but may receive a set-aside by applying in writing to Commerce.

(iii) The set-aside is a specified monthly quantity based on average monthly shipments during a specific base period.

(4) *Copper controlled materials.* (i) Set-asides are applicable to all copper controlled materials producers.

(ii) The monthly set-aside for each copper controlled materials producer is calculated by multiplying the producer's set-aside base by the appropriate set-aside percentage for each product. The set-aside percentage and set-aside base are contained in Schedule IV.

(5) *Aluminum controlled materials.* (i) A set-aside is applicable to each aluminum controlled materials producer who receives a written set-aside notification from Commerce.

(ii) Any aluminum controlled materials producer who has not received a set-aside notification must, in accordance with the provisions of this regulation, accept all rated orders received, but may receive a set-aside in writing by applying in writing to Commerce.

(iii) The set-aside for aluminum ingot and aluminum molten metal is calculated based on the average monthly production capacity during a specific base period.

(iv) The set-aside for all other aluminum controlled materials is calculated based on the average monthly shipments during a specific base period.

(6) *Nickel alloys controlled materials.* (i) Set-asides are applicable to all nickel alloys controlled materials producers.

(ii) The monthly set-aside for each nickel alloys controlled materials producer is calculated by multiplying the producer's set-aside base by the appropriate set-aside percentage for each product. The set-aside percentage and set-aside base are contained in Schedule V.

(c) *Order books and product lead times.* (1) Each controlled materials producer must open its order books for the acceptance of DO rated orders at least 45 days prior to the commencement of the applicable minimum lead times provided in Schedule II for the various shapes and forms of controlled materials.

(2) When order books are open, a controlled materials producer must accept all rated orders received until the minimum lead time shown in Schedule II is reached or until the set-aside level is reached.

(3) Once the minimum lead time is reached, a controlled materials producer may devote remaining capacity to unrated orders, even if the set-aside has not been filled. However, the producer must accept all DX rated orders without regard to lead time. If unable to make delivery by the required date, the producer must offer to accept the order in accordance with § 350.13.

(d) *Controlled materials program identification symbols.* (1) A controlled materials producer must use the program identification symbol H2 on all rated orders to obtain production materials or to replace inventories used to fill rated orders except for materials for further conversion.

(2) A controlled materials producer must use the program identification symbol H3 on rated orders to obtain controlled materials for further conversion needed for production or inventory replacement.

(3) A controlled materials distributor must use the program identification symbol H4 on rated orders to obtain controlled materials needed to fill rated orders, or to replace in inventory, controlled materials used to fill rated orders.

(e) *Controlled materials shipments and requirements data.* (1) Controlled materials producers and distributors are required to maintain and submit to Commerce upon request, data on shipments against rated and unrated orders and on related activities [OMB Nos. 0625–0107 (Recordkeeping), 0625–0011 (Copper), 0625–0016 (Aluminum), 0625–0017 (Steel), and 0625–0021 (Nickel Alloys)].

(2) Persons performing against rated orders must provide, upon request of the appropriate Delegate Agency or the prime contractor, data on requirements for controlled materials needed to fill rated contracts for items manufactured to authorized program specifications or used in construction for authorized programs [OMB Nos. 0625–0107 (Recordkeeping) and 0625–0013 (Controlled Materials Requirements—Production, Construction, or Research and Development)]. Prime contractors may request this information from their subcontractors only when needed to satisfy a request for requirements data from a Delegate Agency.

Subpart G—Critical Items

§ 350.40 General provisions.

(a) From time-to-time Commerce may determine that certain items have a critical importance to industrial production with respect to the national defense and authorized programs. Special rules for such items are set forth in this Subpart.

(b) Commerce may establish special rules as needed to ensure that critical items are available to authorized programs in a timely fashion and to provide for an equitable and orderly distribution of requirements for such items among all suppliers of the items.

§ 350.41 Metalworking machines.

(a) "Metalworking machines" include power driven, manual or automatic, metal cutting and metal forming machines and complete machines not supported in the hands of an operator when in use. Basic machines with a list price of $2,500 or less are not covered by this section.

(b) Metalworking machines covered by this section include:

Bending and forming machines
Boring machines
Broaching machines
Drilling and tapping machines
Electrical discharge, ultrasonic and chemical erosion machines
Forging machinery and hammers
Gear cutting and finishing machines
Grinding machines
Hydraulic and pneumatic presses, power driven
Machining centers and way-type machines
Manual presses
Mechanical presses, power driven
Milling machines
Miscellaneous machine tools
Miscellaneous secondary metal forming and cutting machines
Planers and shapers
Polishing, lapping, boring, and finishing machines

Punching and shearing machines
Riveting machines
Saws and filing machines
Turning machines, lathes, including automatic
Wire and metal ribbon forming machines

(c) A metalworking machine producer is not required to accept DO rated orders calling for delivery in any month of a total quantity of any size of machine in excess of 60 percent of scheduled production of that size of machine for that month, or any DO rated orders received less than three months prior to the beginning of the month for which delivery is requested. However, DX rated orders must be accepted without regard to a set-aside or the lead time, if delivery can be made by the required date.

Subpart H—Special Priorities Assistance

§ 350.50 General provisions.

(a) The DPAS is designed to be largely self-executing. However, it is anticipated that from time-to-time problems will occur. In this event, a person should immediately contact the appropriate contract administration officer for guidance or assistance. If additional formal aid is needed, special priorities assistance should be sought from the Delegate Agency through the contract administration officer. If the Delegate Agency is unable to resolve the problem or to authorize the use of a priority rating and believes additional assistance is warranted, the Delegate Agency may forward the request to the Department of Commerce for action. Special priorities assistance is a service provided to alleviate problems that do arise.

(b) Special priorities assistance can be provided for any reason in support of this regulation, such as assisting in obtaining timely deliveries of items needed to satisfy rated orders or authorizing the use of priority ratings on orders to obtain items not automatically ratable under this regulation.

(c) A request for special priorities assistance or priority rating authority must be submitted on Form ITA-999 (OMB #0625-0015) to the local contract administration representative. Form ITA-999 may be obtained from the Delegate Agency representative, any Commerce Field Office, or from the Department of Commerce. A sample Form ITA-999 is attached at Appendix III.

§ 350.51 Requests for priority rating authority.

(a) If a rated order is likely to be delayed because a person is unable to obtain items not normally rated under this regulation, the person may request the authority to use a priority rating in ordering the needed items. Examples of items for which priority ratings can be authorized include:

(1) Production or construction equipment;

(2) Computers when not used as production items; and

(3) Expansion, rebuilding or replacing plant facilities.

(b) *Rating authority for production or construction equipment.* (1) A request for priority rating authority for production or construction equipment must be submitted to the appropriate Delegate Agency. The Delegate Agency may establish particular forms to be used for these requests (*e.g.*, Department of Defense Form DD 691.)

(2) When the use of a priority rating is authorized for the procurement of production or construction equipment, a rated order may be used either to purchase or to lease such equipment. However, in the latter case, the equipment may be leased only from a person engaged in the business of leasing such equipment or from a person willing to lease rather than sell.

(c) *Rating authority in advance of a rated prime contract.* (1) In certain cases and upon specific request, Commerce, in order to promote the national defense, may authorize a person to place a priority rating on an order to a supplier in advance of the issuance of a rated prime contract. In these instances, the person requesting advance rating authority must obtain sponsorship of the request from the appropriate Delegate Agency. The person shall also assume any business risk associated with the placing of rated orders if these orders have to be cancelled in the event the rated prime contract is not issued.

(2) The person must state the following in the request:

It is understood that the authorization of a priority rating in advance of our receiving a rated prime contract from a Delegate Agency and our use of that priority rating with our suppliers in no way commits the Delegate Agency, the Department of Commerce or any other government agency to enter into a contract or order or to expend funds. Further, we understand that the Federal Government shall not be liable for any cancellation charges, termination costs, or other damages that may accrue if a rated prime contract is not eventually placed and, as a result, we must subsequently cancel orders placed with the use of the priority rating authorized as a result of this request.

(3) In reviewing requests for rating authority in advance of a rated prime contract, Commerce will consider, among other things, the following criteria:

(i) The probability that the prime contract will be awarded;

(ii) The impact of the resulting rated orders on suppliers and on other authorized programs;

(iii) Whether the contractor is the sole source;

(iv) Whether the item being produced has a long lead time;

(v) The political sensitivity of the project; and

(vi) The time period for which the rating is being requested.

(4) Commerce may require periodic reports on the use of the rating authority granted under paragraph (c) of this section.

(5) If a rated prime contract is not issued, the person shall promptly notify all suppliers who have received rated orders pursuant to the advanced rating authority that the priority rating on those orders is cancelled.

§ 350.52 Examples of assistance.

(a) While special priorities assistance may be provided for any reason in support of this regulation, it is usually provided in situations where:

(1) A person is experiencing difficulty in obtaining delivery against a rated order by the required delivery date; or

(2) A person cannot locate a supplier for an item needed to fill a rated order.

(b) Other examples of special priorities assistance include:

(1) Ensuring that rated orders receive preferential treatment by suppliers;

(2) Resolving production or delivery conflicts between various rated orders;

(3) Assisting in placing rated orders with suppliers;

(4) Verifying the urgency of rated orders; and

(5) Determining the validity of rated orders.

§ 350.53 Criteria for assistance.

Requests for special priorities assistance should be timely, *i.e.*, the request has been submitted promptly and enough time exists for the Delegate Agency or Commerce to effect a meaningful resolution to the problem, and must establish that:

(a) There is an urgent need for the item; and

(b) The applicant has made a reasonable effort to resolve the problem.

§ 350.54 Instances where assistance will not be provided.

Special priorities assistance is provided at the discretion of the Delegate Agencies and Commerce when it is determined that such assistance is warranted to meet the objectives of this regulation. Examples where assistance will not be provided include situations when a person is attempting to:

(a) Secure a price advantage;

(b) Obtain delivery prior to the time required to fill a rated order;

(c) Gain competitive advantage;

(d) Disrupt an industry apportionment program in a manner designed to provide a person with an unwarranted share of scarce items; or

(e) Overcome a supplier's regularly established terms of sale or conditions of doing business.

§ 350.55 Assistance programs with Canada and other nations.

(a) To promote military assistance to foreign nations, this section provides for authorizing priority ratings to persons in Canada and in other foreign nations to obtain items in the United States in support of authorized programs. Although priority ratings have no legal authority outside of the United States, this section also provides information on how persons in the United States may obtain informal assistance in Canada.

(b) *Canada.* (1) The joint U.S.-Canadian military arrangements for the defense of North America and the integrated nature of their defense industries as set forth in the *U.S.-Canadian Statement of Principles for Economic Cooperation* (October 26, 1950) require close coordination and the establishment of a means to provide mutual assistance to the defense industries located in both countries.

(2) The Department of Commerce coordinates with the Canadian Department of Supply and Services on all matters of mutual concern relating to the administration of this regulation. A copy of the Memorandum of Understanding between the two departments is provided at Appendix IV.

(3) Any person in the United States ordering defense items in Canada should inform the Canadian supplier that the items being ordered are to be used to fill a rated order. The Canadian supplier should be informed that if production materials are needed from the United States by the supplier or the supplier's vendor to fill the order, they should contact the Canadian Department of Supply and Services for authority to place rated orders in the United States.

(4) Any person in Canada producing defense items for the Canadian government may also obtain priority rating authority for items to be purchased in the United States by applying to the Canadian Department of Supply and Services in accordance with procedures specified by that Department.

(5) Persons in Canada needing special priorities assistance in obtaining defense items in the United States may apply for such assistance to the Canadian Department of Supply and Services. The Department of Supply and Services will forward appropriate requests to Commerce.

(6) Any person in the United States requiring assistance in obtaining items in Canada must submit a request through the Delegate Agency to Commerce on Form ITA-999. Commerce will forward appropriate requests to the Canadian Department of Supply and Services.

(c) *Foreign nations.* (1) Any person in a foreign nation other than Canada requiring assistance in obtaining defense items in the United States or priority rating authority for defense items to be purchased in the United States, should apply for such assistance or rating authority to the U.S. Department of Defense. The request must be sponsored by the government of the foreign nation prior to its submission.

(2) If the Department of Defense endorses the request, it will be forwarded to Commerce for appropriate action.

Subpart I—Official Actions

§ 350.60 General provisions.

(a) Commerce may, from time-to-time, take specific official actions to implement or enforce the provisions of this regulation.

(b) Several of these official actions (Rating Authorizations, Directives, and Letters of Understanding) are discussed in this Subpart. Other official actions which pertain to compliance (Administrative Subpoenas, Demands for Information, and Inspection Authorizations) are discussed in § 350.71(b).

§ 350.61 Rating Authorizations.

(a) A Rating Authorization is an official action granting specific priority rating authority that:

(1) Permits a person to place a priority rating on an order for an item not normally ratable under this regulation; or

(2) Authorizes a person to modify a priority rating on a specific order or series of contracts or orders.

(b) To request priority rating authority, see § 350.51.

§ 350.62 Directives.

(a) A Directive is an official action which requires a person to take or refrain from taking certain actions in accordance with its provisions.

(b) A person must comply with each Directive issued. However, a person may not use or extend a Directive to obtain any items from a supplier, unless expressly authorized to do so in the Directive.

(c) Directives take precedence over all DX rated orders, DO rated orders, and unrated orders previously or subsequently received, unless a contrary instruction appears in the Directive.

§ 350.63 Letters of Understanding.

(a) A Letter of Understanding is an official action which may be issued in resolving special priorities assistance cases to reflect an agreement reached by all parties (Commerce, the Delegate Agency, the supplier, and the customer).

(b) A Letter of Understanding is not used to alter scheduling between rated orders, to authorize the use of priority ratings, to impose restrictions under this regulation, or to take other official actions. Rather, Letters of Understanding are used to confirm production or shipping schedules which do not require modifications to other rated orders.

Subpart J—Compliance

§ 350.70 General provisions.

(a) Compliance actions may be taken for any reason necessary or appropriate to the enforcement or the administration of the Defense Production Act, this regulation, or an official action. Such actions include audits, investigations, or other inquiries.

(b) Any person who places or receives a rated order should be thoroughly familiar with, and must comply with, the provisions of this regulation.

(c) Willful violation of any of the provisions of Title I or section 705 of the Defense Production Act, this regulation, or an official action of the Department of Commerce, is a criminal act, punishable as provided in the Defense Production Act and as set forth in § 350.74 of this regulation.

§350.71 Audits and investigations.

(a) Audits and investigations are official examinations of books, records, documents, other writings and information to ensure that the provisions of the Defense Production Act, this regulation, and official actions have been properly followed. An audit or investigation may also include interviews and a systems evaluation to detect problems or failures in the implementation of this regulation.

(b) When undertaking an audit, investigation, or other inquiry, the Department of Commerce shall:

(1) Define the scope and purpose in the official action given to the person under investigation, and

(2) Have ascertained that the information sought or other adequate and authoritative data are not available from any Federal or other responsible agency.

(c) In administering this regulation, Commerce may issue the following documents which constitute official actions:

(1) *Administrative Subpoenas.* An Administrative Subpoena requires a person to appear as a witness before an official designated by the Department of Commerce to testify under oath on matters of which that person has knowledge relating to the enforcement or the administration of the Defense Production Act, this regulation, or official actions. An Administrative Subpoena may also require the production of books, papers, records, documents and physical objects or property.

(2) *Demand for Information.* A Demand for Information requires a person to furnish to a duly authorized representative of the Department of Commerce any information necessary or appropriate to the enforcement or the administration of the Defense Production Act, this regulation, or official actions.

(3) *Inspection Authorizations.* An Inspection Authorization requires a person to permit a duly authorized representative of Commerce to interview the person's employees or agents, to inspect books, records, documents, other writings and information in the person's possession or control at the place where that person usually keeps them, and to inspect a person's property when such interviews and inspections are necessary or appropriate to the enforcement or the administration of the Defense Production Act, this regulation, or official actions.

(d) The production of books, records, documents, other writings and information will not be required at any place other than where they are usually kept if, prior to the return date specified in the Administrative Subpoena or Demand for Information, a duly authorized official of Commerce is furnished with copies of such material that are certified under oath to be true copies. As an alternative, a person may enter into a stipulation with a duly authorized official of Commerce as to the content of the material.

(e) An Administrative Subpoena, Demand for Information, or Inspection Authorization, shall include the name, title or official position of the person to be served, the evidence sought to be adduced, and its general relevance to the scope and purpose of the audit, investigation, or other inquiry. If employees or agents are to be interviewed; if books, records, documents, other writings, or information are to be produced; or if property is to be inspected; the Administrative Subpoena, Demand for Information, or Inspection Authorization will describe them with particularity.

(f) Service of documents shall be made in the following manner:

(1) Service of a Demand for Information or Inspection Authorization shall be made personally, or by Certified Mail—Return Receipt Requested at the person's last known address. Service of an Administrative Subpoena shall be made personally. Personal service may also be made by leaving a copy of the document with someone of suitable age and discretion at the person's last known dwelling or place of business.

(2) Service upon other than an individual may be made by serving a partner, corporate officer, or a managing or general agent authorized by appointment or by law to accept service of process. If an agent is served, a copy of the document shall be mailed to the person named in the document.

(3) Any individual 18 years of age or over may serve an Administrative Subpoena, Demand for Information, or Inspection Authorization. When personal service is made, the individual making the service shall prepare an affidavit as to the manner in which service was made and the identity of the person served, and return the affidavit, and in the case of subpoenas, the original document, to the issuing officer. In case of failure to make service, the reasons for the failure shall be stated on the original document.

§ 350.72 Compulsory process.

(a) If a person refuses to permit a duly authorized representative of Commerce to have access to any premises or source of information necessary to the administration or the enforcement of the Defense Production Act, this regulation, or official actions, the Commerce representative may seek compulsory process. Compulsory process means the institution of appropriate legal action, including *ex parte* application for an inspection warrant or its equivalent, in any forum of appropriate jurisdiction.

(b) Compulsory process may be sought in advance of an audit, investigation, or other inquiry, if, in the judgment of the Director of the Office of Industrial Resource Administration, U.S. Department of Commerce, in consultation with the Assistant General Counsel for International Trade, U.S. Department of Commerce, there is reason to believe that a person will refuse to permit an audit, investigation, or other inquiry, or that other circumstances exist which make such process desirable or necessary.

§ 350.73 Notification of failure to comply.

(a) At the conclusion of an audit, investigation, or other inquiry, or at any other time, Commerce may inform the person in writing where compliance with the requirements of the Defense Production Act, this regulation, or an official action were not met.

(b) In cases where Commerce determines that failure to comply with the provisions of the Defense Production Act, this regulation, or an official action was inadvertent, the person may be informed in writing of the particulars involved and the corrective action to be taken. Failure to take corrective action may then be construed as a willfull violation of the Defense Production Act, this regulation, or an official action.

§ 350.74 Violations, penalties, and remedies.

(a) Willful violation of the provisions of Title I or Sections 705 or 707 of the Defense Production Act, this regulation, or an official action is a crime and upon conviction, a person may be punished by fine or imprisonment, or both. Except as provided in (b) below, the maximum penalties provided by the Defense Production Act are a $10,000 fine, or one year in prison, or both.

(b) Willful refusal to furnish any information or reports required by Commerce under Section 705 of the Defense Production Act, this regulation, or an official action, is a crime and upon conviction, a person may be punished by fine or imprisonment, or both. Maximum penalties provided by the Defense Production Act are a $1,000 fine, or one year in prison, or both.

(c) The government may also seek an injunction from a court of appropriate jurisdiction to prohibit the continuance of any violation of, or to enforce compliance with, the Defense Production Act, this regulation, or an official action.

(d) In order to secure the effective enforcement of the Defense Production Act, this regulation, and official actions, the following are prohibited (see Section 704 of the Defense Production Act; see also, for example, Sections 2 and 371 of Title 18, United States Code):

(1) No person may solicit, influence or permit another person to perform any act prohibited by, or to omit any act required by, the Defense Production Act, this regulation, or an official action.

(2) No person may conspire or act in concert with any other person to perform any act prohibited by, or to omit any act required by, the Defense Production Act, this regulation, or an official action.

(3) No person shall deliver any item if the person knows or has reason to believe that the item will be accepted, redelivered, held, or used in violation of the Defense Production Act, this regulation, or an official action. In such instances, the person must immediately notify the Department of Commerce that, in accordance with this provision, delivery has not been made.

§ 350.75 Compliance conflicts.

If compliance with any provision of the Defense Production Act, this regulation, or an official action would prevent a person from filling a rated order or from complying with another provision of the Defense Production Act, this regulation, or an official action, the person must immediately notify the Department of Commerce for resolution of the conflict.

Subpart K—Adjustments, Exceptions, and Appeals

§ 350.80 Adjustments or exceptions.

(a) A person may submit a request to the Office of Industrial Resource Administration, U.S. Department of Commerce, for an adjustment or exception on the ground that:

(1) A provision of this regulation or an official action results in an undue or exceptional hardship on that person not suffered generally by others in similar situations and circumstances; or

(2) The consequence of following a provision of this regulation or an official action is contrary to the intent of the Defense Production Act or this regulation.

(b) Each request for adjustment or exception must be in writing and contain a complete statement of all the facts and circumstances related to the provision of this regulation or official action from which adjustment is sought and a full and precise statement of the reasons why relief should be provided.

(c) The submission of a request for adjustment or exception shall not relieve any person from the obligation of complying with the provision of this regulation or official action in question while the request is being considered unless such interim relief is granted in writing by the Office of Industrial Resource Administration.

(d) A decision of the Office of Industrial Resource Administration under this section may be appealed to the Assistant Secretary for Trade Administration, U.S. Department of Commerce. (For information on the appeal procedure, see § 350.81.)

§ 350.81 Appeals.

(a) Any person who has had a request for adjustment or exception denied by the Office of Industrial Resource Administration under § 350.80, may appeal to the Assistant Secretary for Trade Administration, U.S. Department of Commerce, who shall review and reconsider the denial.

(b) An appeal must be received by the Office of the Assistant Secretary for Trade Administration, International Trade Administration, U.S. Department of Commerce, Washington, D. C. 20230, Ref: DPAS, no later than 45 days after receipt of a written notice of denial from the Office of Industrial Resource Administration. After this 45-day period, an appeal may be accepted at the discretion of the Assistant Secretary for Trade Administration for good cause shown.

(c) Each appeal must be in writing and contain a complete statement of all the facts and circumstances related to the action appealed from and a full and precise statement of the reasons the decision should be modified or reversed.

(d) In addition to the written materials submitted in support of an appeal, an appellant may request, in writing, an opportunity for an informal hearing. This request may be granted or denied at the discretion of the Assistant Secretary for Trade Administration.

(e) When a hearing is granted, the Assistant Secretary for Trade Administration may designate an employee of the Department of Commerce to conduct the hearing and to prepare a report. The hearing officer shall determine all procedural questions and impose such time or other limitations deemed reasonable. In the event that the hearing officer decides that a printed transcript is necessary, all expenses shall be borne by the appellant.

(f) When determining an appeal, the Assistant Secretary for Trade Administration may consider all information submitted during the appeal as well as any recommendations, reports, or other relevant information and documents available to the Department of Commerce, or consult with any other persons or groups.

(g) The submission of an appeal under this section shall not relieve any person from the obligation of complying with the provision of this regulation or official action in question while the appeal is being considered unless such relief is granted in writing by the Assistant Secretary for Trade Administration.

(h) The decision of the Assistant Secretary for Trade Administration shall be made within a reasonable time after receipt of the appeal and shall be the final administrative action. It shall be issued to the appellant in writing with a statement of the reasons for the decision.

Subpart L—Miscellaneous Provisions

§ 350.90 Protection against claims.

A person shall not be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with any provision of this regulation, or an official action, notwithstanding that such provision or action shall subsequently be declared invalid by judicial or other competent authority.

§ 350.91 Records and reports.

(a) Persons are required to make and preserve for at least three years, accurate and complete records of any transaction covered by this regulation (OMB #0625–0107) or an official action.

(b) Records must be maintained in sufficient detail to permit the determination, upon examination, of whether each transaction complies with the provisions of this regulation or any official action. However, this regulation does not specify any particular method or system to be used.

(c) Records required to be maintained by this regulation must be made available for examination on demand by duly authorized representatives of Commerce as provided in § 350.71.

(d) In addition, persons must develop, maintain, and submit any other records and reports to Commerce that may be required for the administration of the Defense Production Act and this regulation.

(e) Section 705(e) of the Defense Production Act provides that information obtained under this section which the President deems confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall not be published or disclosed unless the President determines that the withholding of this information is contrary to the interest of the national defense. Information required to be submitted to Commerce in connection with the enforcement or administration of the Act, this regulation, or an official action, is deemed to be confidential under section 705(e) of the Act and shall not be published or disclosed except as required by law.

§ 350.92 Applicability of this regulation and official actions.

(a) This regulation and all official actions, unless specifically stated otherwise, apply to transactions in any state, territory, or possession of the United States and the District of Columbia.

(b) This regulation and all official actions apply not only to deliveries to other persons but also include deliveries to affiliates and subsidiaries of a person and deliveries from one branch, division, or section of a single entity to another branch, division, or section under common ownership or control.

(c) This regulation and its schedules shall not be construed to affect any administrative actions taken by Commerce, or any outstanding contracts or orders placed pursuant to any of the regulations, orders, schedules or delegations of authority under the Defense Materials System and Defense Priorities System previously issued by Commerce. Such actions, contracts, or orders shall continue in full force and effect under this regulation unless modified or terminated by proper authority.

(d) The repeal of the regulations, orders, schedules and delegations of authority of the Defense Materials System (DMS) and Defense Priorities System (DPS) shall not have the effect to release or extinguish any penalty or liability incurred under the DMS/DPS. The DMS/DPS shall be treated as still remaining in force for the purpose of sustaining any action for the enforcement of such penalty or liability.

§ 350.93 Communications.

All communications concerning this regulation, including requests for copies of the regulation and explanatory information, requests for guidance or clarification, and requests for adjustment or exception shall be addressed to the Office of Industrial Resource Administration, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, Ref: DPAS; telephone: (202) 377-4506.

Schedule I to Part 350—Authorized Programs and Delegate Agencies

The programs listed in this schedule have been authorized by the Federal Emergency Management Agency for priorities and allocations support under this regulation. They have equal preferential status.

The Department of Commerce has authorized the Delegate Agencies to use this regulation in support of those programs assigned to them, as indicated below.

Program Identification Symbol	Authorized Program	Delegate Agency
	Defense Programs	
A1	Aircraft	Department of Defense and Associated Agencies.[1]
A2	Missiles	Do.
A3	Ships	Do.
A4	Tank—Automotive	Do.
A5	Weapons	Do.
A6	Ammunition	Do.
A7	Electronic and communications equipment	Do.
B1	Military building supplies	Do.
B8	Production equipment (for defense contractor's account)	Do.
B9	Production equipment (Government owned)	Do.
C2	Department of Defense construction	Do.
C3	Maintenance, repair and operating supplies (MRO) for Department of Defense facilities	Do.
C8	Controlled materials for Defense Industrial Supply Center (DISC)	Do.
C9	Miscellaneous	Do.
	International Defense Programs	
	Canada	
D1	Canadian military programs	Department of Commerce.
D2	Canadian production and construction	Do.
D3	Canadian atomic energy program	Do.
	Other Foreign Nations	
G1	Certain munitions items purchased by foreign governments through domestic commercial channels for export	Department of Commerce.
G2	Certain direct defense needs of foreign governments other than Canada	Do.
G3	Foreign nations (other than Canada) production and construction	Do.
	Co-Production	
J1	F-16 Co-Production Program	Departments of Commerce and Defense.
	Atomic Energy Programs	
E1	Construction	Department of Energy.
E2	Operations—including maintenance, repair and operating supplies (MRO)	Do.
E3	Privately owned facilities	Do.
	Other Energy Programs	
F1	Exploration, production, refining and transportation	Department of Energy.
F2	Conservation	Do.
F3	Construction and Maintenance	Do.
	Other Defense, Energy and Related Programs	
H1	Certain combined orders (see § 350.17(c))	Department of Commerce.
H2	Controlled materials producers	Do.
H3	Further converters (controlled materials)	Do.
H4	Distributors of controlled materials	Do.
H5	Private domestic production	Do.
H6	Private domestic construction	Do.
H7	Maintenance, repair and operating supplies (MRO)	Do.

Program Identification Symbol	Authorized Program	Delegate Agency
K1	Federal supply items	General Services Administration.
N1	Approved civil defense programs	Federal Emergency Management Agency.

[1] Department of Defense agencies are: Army, Navy (including Coast Guard), Air Force, Defense Logistics Agency, and National Security Agency. Associated Agencies of the Department of Defense include Central Intelligence Agency, Federal Aviation Administration, and National Aeronautics and Space Administration.

Schedule II to Part 350—Controlled Materials

Controlled Materials [1]	Minimum quantity* (net tons, except as specified)		Minimum number of days**			
	Carbon [2]	Alloy [2]	Carbon	High-strength low-alloy	Stainless	Alloy [3]
Steel						
Bar, bar shapes (including light shapes):						
Bar, hot-rolled stock for projectile and shell bodies [4]	([2])	([2])	45	75		[5] 75
Bar, hot-rolled, other (including light shapes):						
Round bars up to and including 3 inches, and squares, hexagons, half rounds, ovals, etc., of approximately equivalent section area	5	([2])	[5] 45	[5] 75	90	[5] 75
Round and square bars over 3 inches, but less than 8 inches	15	([2])	[5] 45	[5] 75	90	[5] 75
Bar-size shapes (angles, tees, channels, and zees under 3 inches)	5	([2])	[5] 45	[5] 75	90	[5] 75
Bar, reinforcing (straight lengths, as rolled)	5		45			75
Bar, cold finished	5	([2])	[5] 75	[5] 105	105	[5] 105
Sheet, strip (uncoated and coated):						
Sheet, hot-rolled	5	([2])	45	75	90	75
Sheet, cold-rolled	5	([2])	45	75	105	90
Sheet, galvanized	([2])		45			
Sheet, all other coated	5		45			
Sheet, enameling	5		45			
Roofing, galvanized, corrugated, V-crimped channel drains	([2])		45			
Ridge roll, valley, and flashing	([2])		45			
Siding, corrugated and brick	([2])		45			
Strip, hot-rolled	([2])	([2])	45	75	90	75
Strip, cold-rolled	([2])	([2])	45	75	105	90
Strip, galvanized	([2])		[6] 45			
Electrical sheet and strip	5		[7] 45			
Tin mill black plate (pounds)	12,000		45			
Tin plate, hot-dipped (pounds)	12,000		45			
Ternes, special coated manufacturing (pounds)	10,000		45			
Tin plate, electrolytic (pounds)	12,000					
Electrolytic chromium coated steel [8]	([2])					
Plate:						
Rolled armor	([2])	([2])	[5] 45	[5] 75	90	[5] 75
Continuous strip mill production	10	([2])	[5] 45	[5] 75	90	[5] 75
Sheared, universal, or bar mill production	3	([2])	[5] 45	[5] 75	90	[5] 75
Structural shapes, piling	([2])	([2])	45	[9] 75	[9] 150	90
Pipe, tubing:						
Standard pipe (including couplings furnished by mill)	([10])	([10])	45		120	
Oil-country goods (casing, tubular goods, couplings furnished by mill)	([10])	([10])	45			60
Line pipe (including couplings furnished by mill)	([10])	([10])	45	75		
Pressure and mechanical tubing (seamless and welded):						
Seamless cold-drawn (pounds):						
Under 20 pounds per foot	5,000	5,000	[8] 60		120	120
20 pounds per foot and over	5,000	10,000	[8] 60		120	120
Seamless hot-rolled	([2])	([2])	[8] 60		120	120
Welded	([2])	([2])	[8] 60		120	120
Wire, wire products:						
Wire, drawn	([2])	([2])	45	75	90	75
Nails—bright steel wire, steel cut, galvanized, cement-coated and painted	[11] 5		45			
Spikes and brads—steel wire, galvanized, cement-coated	[11] 5		45			
Staples, bright and galvanized (farm and poultry)	[11] 5		45			
Wire rope and strand	([2])		45		105	
Welded wire mesh	([2])		45			
Woven wire netting	[11] 5		45			
Barbed and twisted wire	[11] 5		45			
Wire fence, woven and welded (farm and poultry)	[11] 5		45			
Bale ties	[11] 5		45			
Coiled automatic baler wire	[11] 5		45			
Tool steel (all forms including die blocks and tool steel forgings) (pounds)	500	500	[12] 60			[12] 90
Other mill forms and products (excluding castings and forgings):						
Ingots	[13] 25	([14])	45	75	75	75
Billets, projectile and shell stock	([2])	([2])	45	75		75
Blooms, slabs, other billets, tube rounds, sheet bars	[13] 25	([2])	45	75	75	75
Skelp	25		45			
Wire rod	([2])	([2])	45	75	90	75
Rail and track accessories	([2])	([2])	45			90
Wheels, rolled or forged (railroad)	([2])	([2])	45			90
Axles (railroad)	([2])	([2])	45			90

Controlled materials [1]	Minimum quantity* (pounds)	Minimum number of days**
Copper		
Copper and copper-base alloy brass mill products: [15]		
Copper (unalloyed):		
Bar	2,000	45
Shapes, wire (except electrical wire)	500	45

Controlled materials[1]	Minimum quantity* (pounds)	Minimum number of days**
Rod	2,000	45
Sheet, plate (24 inches wide and over)	2,000	45
Rolls and strip (up to 24 inches wide)	2,000	45
Pipe, tube (seamless)	2,000	45
Copper-base alloy:		
Bar	2,000	[16] 45
Wire, shapes	500	[16] 45
Free cutting brass rod	2,000	[16] 45
Other rod	1,000	[16] 45
Sheet, and plate (24 inches wide and over)	2,000	[16] 45
Rolls and strip (up to 24 inches in width)	2,000	[16] 45
Military ammunition cups and discs	2,000	[16] 45
Circles	1,000	[16] 90
Pipe, tube (seamless)	2,000	[16] 45
Copper wire mill products:		
Copper wire and cable:		
Bare and tinned	([17]) ([18])	35
Weatherproof	([17]) ([18])	40
Magnet wire	([17]) ([18])	35
Insulated building wire	([17]) ([18])	45
Paper and lead power cable	([17]) ([18])	75
Paper and pulp telephone cable	([17]) ([18])	45
Plastic insulated telephone cable	([17]) ([18])	45
Asbestos cable	([17]) ([18])	60
Portable and flexible cord and cable	([17]) ([18])	45
Communication wire and cable	([17]) ([18])	60
Shipboard cable	([17]) ([18])	75
Automotive and aircraft wire and cable	([17]) ([18])	45
Insulated power cable	([17]) ([18])	75
Signal and control cable	([17]) ([18])	75
Coaxial cable	([17]) ([18])	75
Copper-clad steel wire containing over 20 percent copper by weight regardless of end use	([17]) ([18])	35
Copper-clad aluminium wire containing over 20 percent copper by weight regardless of end use	([17]) ([18])	45
Copper and copper-base alloy foundry products and powder:		
Copper, brass, and bronze castings		[19] [20] 14
Copper, brass, and bronze powder (including copper powder, granular and flake, and copper-base alloy powder, granular and flake)		30

Controlled materials[1]	Minimum quantity* (pounds)	Minimum number of days**
Aluminum		
Ingot, granular or shot, and molten metal:		
Extrusion ingot (billet)	([18])	90
Other ingot and molten metal, primary	([18])	60
Other ingot and molten metal, secondary	([18])	
Sheet and plate:		
Sheet, non-heat treatable	([18])	150
Sheet, heat treatable	([18])	150
Plate, non-heat treatable	([18])	150
Plate, heat treatable	([18])	150
Welded tube	([18])	
Foil	([18])	90
Aluminum conductor:		
ACSR and aluminium cable, bare	([18])	60
Wire and cable, insulated or covered	([18])	60
Rolled bar, rod and wire (continuous cast or rolled):		
Conductor redraw rod	([18])	60
Non-conductor redraw rod	([18])	60
Other rod and bar	([18])	120
Wire, bare, conductor and non-conductor	([18])	120
Extruded bar, rod, shapes and drawn tube:		
Extruded rod and bar—alloys other than 2000 and 7000 series	([18])	60
Extruded rod and bar—alloys in 2000 and 7000 series	([18])	150
Extruded pipe and tube—alloys other than 2000 and 7000 series	([18])	60
Extruded pipe and tube—alloys in 2000 and 7000 series	([18])	150
Extruded shapes—alloys other than 2000 and 7000 series	([18])	60
Extruded shapes—alloys in 2000 and 7000 series	([18])	150
Drawn tube—alloys other than 2000 and 7000 series	([18])	60
Drawn tube—alloys in 2000 and 7000 series	([18])	120
Powder, flake and paste	([18])	60

Controlled materials[1]	Minimum quantity*	Minimum number of days**	
		Solid solution	Precipitation hardened
Nickel Alloys			
Rods and bars (except anode bars):			
Hot-rolled, including wire rod	([2])	90	120
Forging quality	([2])	90	120
Cold-finished	([2])	120	165
Sheet and strip:			
Hot-rolled	([2])	90	120
Cold-rolled	([2])	120	165
Foil	([2])	120	165
Plate	([2])	90	120
Pipe, tubing	([2])	90	120
Wire	([2])	120	165

Controlled materials[1]	Minimum quantity*	Minimum number of days**	
		Solid solution	Precipitation hardened
Other mill forms:			
Ingots	(2)	90	120
Blooms, slabs, billets	(2)	90	120
Powder	(2)	90	120
Shapes and forms not listed above (including anode bars)	(2)	(2)	(2)
Castings (less gates and risers, rough as cast)	(2)	90	120

(1) See technical definitions in Schedule III.
(2) All stainless steel products, certain other steel products and all nickel alloy products. By negotiation between the mill and its customer. If no acceptable arrangements are worked out, the Office of Industrial Resource Administration should be notified.
(3) For clad products, add 45 days to lead time indicated.
(4) Includes projectile body stock, sizes under 2⅞ inches.
(5) If annealed or heat-treated, add an additional 15 days.
(6) For welded tubing or high carbon spring steel strip, 75 days.
(7) 60 days for high grade (AISI M15 and oriented).
(8) Steel pipe or tubing exceeding 36 inches O.D. is not a controlled material.
(9) Applies to special rolled shapes including angles and channels.
(10) Published carload minimum (mixed sizes and grades).
(11) Quantity refers to any assortment of wire merchant trade products.
(12) If cold-finished, add an addtional 15 days.
(13) For forging quality, product of one heat.
(14) Product of one heat.
(15) Includes anodes—rolled, forged, or sheared from cathodes.
(16) For refractory alloys, 60 days, except for tube over 5 inches in diameter, which should be 120 days.
(17) Standard package quantities as published by each mill.
(18) Standard minimum quantities as established by each mill.
(19) Lead time applies to unmachined castings after approval of patterns for production.
(20) Small simple castings to fit 12 x 16 inch flask, 7 days.

*Minimum quantity for each size and grade of any items for mill shipment at any one time to any one destination.
**Minimum number of days in advance of first day of month in which shipment is required.

NOTE.—Leaders in figure columns indicate not applicable.

Schedule III to Part 350—Technical Definitions of Controlled Materials Products

Steel

"Alloy steel"—Steel containing 50 percent or more of iron or steel and any one or more of the following elements in the following amounts: manganese, maximum of range in excess of 1.65 percent; silicon, maximum of range in excess of 0.60 percent (excepting electrical sheet and strip); copper, maximum of range in excess of 0.60 percent; aluminum, boron, chromium (less than 10 percent), cobalt, columbium, molybdenum, nickel, tantalum, titanium, tungsten, vanadium, zirconium, or any other alloying elements in any amount specified or known to have been added to obtain a desired alloying effect. Clad steels which have an alloy steel base or carbon steel base for which nickel and/or chromium is contained in the coating or cladding material (*e.g.*, nickel-copper alloy, nickel-chrome-iron alloy or stainless) are alloy steels.

"Alloy steel plate" includes the following specifications:

—0.180 inch or thicker, over 48 inches wide
—0.230 inch or thicker, over 8 inches wide
—7.53 pounds per square foot or heavier, over 8 inches wide

"Carbon steel"—Any steel (including wrought iron) customarily so classified and also includes: (a) ingot iron; (b) all grades of electrical sheet and strip; (c) high-strength low-alloy steels; (d) clad and coated carbon steels not included with alloy steels: *e.g.*, galvanized, tin, terne, copper (excluding copper wire mill products) or aluminum clad and/or coated carbon steels; and (e) leaded carbon steels.

"Carbon steel plate" includes the following specifications, plus floor plates of any thickness:

—0.180 inch or thicker, over 48 inches wide
—0.230 inch or thicker, over 8 inches wide
—7.53 pounds per square foot or heavier, over 48 inches wide
—9.62 pounds per square foot or heavier, over 8 inches wide

"High-strength low-alloy steels"—Only the proprietary grade promoted and sold for this purpose, and Navy high-tensile steel grade HT Specification Mil-S-16113 (Ships).

"Stainless steel"—Heat and corrosion resisting steel containing 50 percent or more of iron or steel and 10 percent or more of chromium whether with or without nickel, molybdenum, or other elements.

"Stainless steel plate" includes the following size specifications: 3/16 inch (0.1875) or thicker, over 10 inches wide.

"Standard steel pipe" includes the following:

Ammonia pipe
Bedstead tubing
Driven well pipe
Drive pipe
Dry kiln pipe
Dry pipe for locomotives
English gas and steam pipe
Fence pipe
Furniture pipe
Ice machine pipe
Mechanical service pipe
Nipple pipe
Pipe for piling
Pipe for plating and enameling
Pump pipe
Signal pipe
Standard pipe coupling
Structural pipe
Turbine pump pipe
Water main pipe
Water well casing
Water well reamed and drifted pipe

"Structural steel shapes"—Rolled flanged sections having at least one dimension of their cross section 3 inches or greater, commonly referred to as angles, channels, beams, and wide flange sections.

Copper

"Brass-mill products"—Copper and copper-base alloys in the following forms: sheet, plate, and strip in flat lengths or coils; rod, bar, shapes, and wire (except copper wire mill products); anodes, rolled, forged, or sheared from cathodes; and seamless tube and pipe. Straightening, threading, chamfering, cutting to width or length, or reduction in gauge, do not constitute changes in form of brass mill products. The following related products which have been produced by a change in form of brass mill products are not included in the definition of brass mill products:

Circles, discs (except brass military ammunition discs)
Cups (except brass military ammunition cups)
Blanks and segments
Forgings (except anodes)
Welding rod, 3 feet or less in length
Rotating bands
Tube and nipple—welded, brazed, or mechanically seamed
Formed flashings
Engravers' copper

"Copper-base alloy"—Any alloy of which the percentage of copper metal equals or exceeds 40 percent by weight of the metallic content of the alloy. It does not include alloyed gold produced in accordance with U.S. Commercial Standard CS 67-38.

"Copper foundry products"—Cast copper and copper-based alloy shapes or forms suitable for ultimate use without remelting, rolling, drawing, extruding, or forging. The process of casting includes the removal of gates, risers, and sprues, and sandblasting, tumbling, and dipping, but does not include any machining or further processing. For centrifugal casting, the process includes the removal of the rough cut in the inner or outer diameter, or both, before delivery to a customer. Castings include anodes and shot cast in a foundry or by an ingot maker.

"Copper powder mill products"—Copper or copper-base alloy in the form of granular or flake powder.

"Copper raw materials" includes:

(a) "Refined copper"—Copper metal which has been refined by any process of electrolysis or fire-refined to a grade and in a form suitable for fabrication;

(b) "Blister copper"—High-grade crude copper in any form produced from converter operations and from which nearly all the oxidizable impurities have been removed by slagging and volatilization;

(c) "Copper and copper-base alloy scrap"—Including fired and demilitarized cartridge and artillery cases;

(d) "Brass mill casting"—From which brass mill or intermediate shapes may be rolled, drawn, or extruded, without remelting;

(e) "Copper-base alloy ingot"—To be used in remelting, alloying, or deoxidizing operations;

(f) "Copper or copper-base alloy shot and waffle"—To be used in remelting, alloying, deoxidizing, or chemical operations; and

(g) "Copper precipitates (or cement copper)"—Precipitated from mine water by contact with iron scrap, tin cans, or iron in other forms.

"Copper wire mill products"—Uninsulated or insulated wire and cable made from copper or copper-base alloy, used for transmission of electrical energy, whatever the outer protective coverings may be, and also copper-clad steel or aluminum wire containing over 20 percent copper by weight regardless of end use. Copper wire mill products shall be measured in terms of pounds of copper content.

Aluminum

"Foil"—A flat rolled product, rectangular in cross section, of thickness less than 0.006 inch.

"Ingot" includes:

(a) "Extrusion ingot (billet)"—A solid or hollow cast form, usually cylindrical, suitable for extruding;

(b) "Other ingot and molten metal, primary"—A cast form other than extrusion ingot (or molten metal), shipped by an integrated producer or nonintegrated fabricator from a company-owned facility not exclusively devoted to producing secondary ingot; and

(c) "Other ingot and molten metal, secondary"—A cast form other than extrusion ingot (or molten metal), principally produced from aluminum scrap to specification by secondary smelters (or others at a facility exclusively devoted to producing ingot from scrap for sale); excludes remelt scrap ingot (RSI) which is considered scrap until remelted and cast into specification ingot.

"Pipe and tube" includes:

(a) "Drawn tube"—A hollow wrought product that is long in relation to its cross section, which is round, square, rectangular, hexagonal, octagonal, or elliptical in shape, sharp or rounded corners, with a uniform wall thickness except as affected by corner radii, and brought to final dimensions by cold drawing through a die (includes tube that is sized);

(b) "Extruded pipe and tube"—A hollow wrought product formed by hot extruding with a uniform wall thickness (except as affected by corner radii) that is long in relation to its cross section, round, square, rectangular, hexagonal, octagonal, or elliptical in shape (excludes tube that is sized by cold drawing); and

(c) "Welded tube"—A hollow product that is long in relation to its cross section, which is round, square, rectangular, hexagonal, octagonal, or elliptical in shape, produced by forming and seam-welding sheet longitudinally.

"Plate" includes:

(a) "Plate, nonheat-treatable"—A flat rolled product, rectangular in cross section, 0.250 inch or greater in thickness, which can be strengthened only by cold work; and

(b) "Plate, heat-treatable"—A flat rolled product, in 2000, 6000, or 7000 alloy series (except 7072), rectangular in cross section, 0.250 inch or greater in thickness, which can be strengthened by a suitable thermal treatment.

"Powder"—An aggregate of discrete particles of aluminum, substantially all of which are finer than 1,000 microns (minus 18 mesh); and includes:

(a) "Atomized powder"—Powder produced by blowing or asperating molten metal through an orifice;

(b) "Flaked powder"—Powder consisting of flat or scale-like particles of a thickness small compared with other dimensions, produced by milling in the presence of a lubricant; and

(c) "Paste"—A blend of powder or flake with a thinner or plasticizer.

"Rod and bar" includes:

(a) "Conductor redraw rod (continuous-cast or rolled)"—A solid round product that is long in relation to cross section, 0.375 inch or greater in diameter, produced by continuous casting followed by size-rolling or by rolling from D.C. cast ingot, suitable for drawing into electrical conductor wire;

(b) "Nonconductor redraw rod (continuous-cast or rolled)"—A solid round product that is long in relation to cross section, 0.375 inch or greater in diameter, produced by continuous casting followed by size-rolling, or by rolling from D.C. cast ingot, suitable for drawing into nonconductor wire;

(c) "Other rod and bar (continuous-cast or rolled)"—A solid round, square, rectangular, hexagon, or octagon-shaped product, produced by continuous casting or rolling that is long in relation to cross section, 0.375 inch or greater in diameter or in at least one perpendicular distance between parallel faces, other than the redraw rod and D.C. cast ingot; and

(d) "Extruded rod and bar"—A solid product produced by extruding (sometimes brought to final dimensions by drawing) that is long in relation to cross section, which is round, square, rectangular, hexagonal, or octagonal in shape and 0.375 inch or greater in diameter or in at least one perpendicular distance between parallel faces.

"Shapes" includes:

(a) "Extruded shapes"—A product produced by extruding, that is long in relation to its cross-sectional dimensions and has a cross section other than that of rod and bar and pipe and tube; and

(b) "Rolled structural shapes"—A structural shape produced by hot rolling.

"Sheet" includes:

(a) "Sheet, nonheat-treatable"—A rolled product, flat or coiled, rectangular in cross section, of 0.006 inch thickness but under 0.250 inch thickness, which can be strengthened only by cold work; and

(b) "Sheet, heat-treatable"—A rolled product, in 2000, 6000, 7000 alloy series (except 7072), flat or coiled, rectangular in cross section, of 0.006 inch thickness but under 0.250 inch thickness, which can be strengthened by a suitable thermal treatment.

"Wire and cable" includes:

(a) "Wire, bare, conductor and nonconductor"—A solid wrought product that is long in relation to its cross section, which is square, round, rectangular, hexagonal, or octagonal in shape, whose diameter or greatest perpendicular distance between parallel faces (except for flattened wire) is less than 0.375 inch;

(b) "ACSR and aluminum cable, bare"—Aluminum stranded conductor reinforced by a core of steel (ACSR), or aluminum (ACAR), or any other bare stranded aluminum conductor; and

(c) "Wire and cable, insulated or covered"—Aluminum electrical conductor wire or stranded conductors that are insulated or covered.

Nickel Alloys

"Nickel alloys"—Those alloys for which the specified nickel content is 10 percent or more up to and including pure nickel, and which the iron content is nominally less than 50 percent of iron, and which does not contain as much as 40 percent of copper, nor as much as 50 percent of aluminum, in the shapes and forms shown in Schedule II. It also includes cast iron for which the specified nickel content is 5 percent or more. It does not include primary nickel in the forms of electrolytic cathodes, pigs, rondelles, cubes, pellets, shot, briquettes, oxide (including sintered oxide), salts, or chemicals; nor does it include primary nickel in the forms of ingots or powder for remelting.

Schedule IV to Part 350—Copper Controlled Materials Producers' Set-aside Base and Percentages

Set-aside Base—Average monthly shipments for a producer's own account during the previous calendar year.

Product	Set-aside percentages[1]
Brass mill products:	
Unalloyed:	
Plate, sheet, strip, and rolls	3
Rod, bar, shapes, and wire	3
Seamless tube and pipe	2
Alloyed:	
Plate, sheet, strip, and rolls	2
Rod, bar, shapes, and wire	2
Seamless tube and pipe	7
Military ammunition cups and discs	10
Copper wire mill products:	
Bare and tinned	2
Weatherproof	2
Magnet wire	2
Paper and lead power cable	2
Paper and lead telephone cable	2
Asbestos cable	2
Portable and flexible cord	2
Communications wire and cable	2
Shipboard cable	2
Automotive and aircraft wire and cable	2
Insulated power cable	2
Signal and control cable	2
Coaxial cable	2

Product	Set-aside percentages[1]
Copper-clad steel wire containing over 20 percent copper by weight regardless of end use	2
Copper foundry products	2
Copper and copper-base alloy powder mill products	([2])

[1] Applies to metal weight, except copper wire mill products, which are by copper content.

[2] No reserve space required. Producers of these products are nevertheless required to accept rated orders for such products in accordance with the provisions of this regulation.

Schedule V to Part 350—Nickel Alloys Controlled Materials Producers' Set-aside Base and Percentages

Set-aside Base—Average monthly shipments, by each producer, during the previous calendar year.

Product	Set-aside percentages
Rod and bars (except anode bars):	
Hot-rolled, including wire rod	10
Forging quality	10
Cold-finished	10
Sheet and strip:	
Hot-rolled	10
Cold-rolled	10
Foil	10
Plate	10
Pipe, tubing	10
Wire	10
Other mill forms:	
Ingots	10
Blooms, slabs, billets	10
Powder	10
Shapes and forms not listed above (including anode bars)	10
Castings (less gates and risers, rough as cast)	10

Appendix I to Part 350—Delegations of Authority

DPAS DEL. 1—Delegation of Authority to the Secretary of Defense; Defense Priorities and Allocations System (15 CFR Part 350)

1. *Authority.*

Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*); Executive Order 10480, 18 FR 4939, 3 CFR 1949–1953 Comp., p. 962, as amended; and Defense Mobilization Order (DMO) 3, 44 CFR 322.

2. *Purpose.*

(a) This document delegates certain authority to the Secretary of Defense necessary to the effective implementation of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350).

(b) Certain specifics concerning the implementation of this delegated authority are contained in a Statement of Conditions to this delegation issued by the Office of Industrial Resource Administration (OIRA), Department of Commerce (DOC).

3. *Rating Authority.*

(a) The Secretary of Defense is delegated the authority to place rated contracts and orders in support of Department of Defense (DOD) programs authorized by the Director, Federal Emergency Management Agency.

(b) The Secretary of Defense is delegated the authority to use the DX rating symbol in placing rated orders for those authorized programs determined by the President to be of the Highest National Priority as described in the DOD Master Urgency List.

4. *Co-production Programs.*

(a) The Secretary of Defense may request priority rating authority from DOC for specific co-production programs, and if granted, may authorize only those foreign firms which have entered into a formal co-production agreement with a U.S. producer to use priority ratings.

(b) DOC may authorize the use of priority ratings by other foreign firms providing items necessary to the co-production activity on a case-by-case basis.

5. *Production and Construction Equipment.*

(a) The Secretary of Defense may authorize persons to place rated orders for delivery of production equipment required to support authorized programs of DOD, when the equipment is necessary for the timely performance of rated orders and timely delivery of the equipment cannot be obtained otherwise.

(b) The Secretary of Defense may authorize persons to place rated orders for delivery of construction equipment, when the equipment is to be used for authorized construction projects and when timely delivery of the equipment cannot be obtained otherwise.

6. *Delivery Scheduling.*

The Secretary of Defense is delegated the authority to reschedule deliveries of materials which are required in support of DOD programs, provided that such authority shall be used (1) only to reschedule deliveries among contracts or orders assigned priority ratings by DOD, and (2) only to the extent that such rescheduling of deliveries requires no change in production schedules of other rated orders.

7. *Special Priorities Assistance.*

The Secretary of Defense may sponsor requests by persons for special priorities assistance upon determining the defense urgency of the requested assistance. DOD will: (1) serve as the initial point of contact for persons needing assistance, (2) verify the accuracy of the information provided and make reasonable efforts to resolve the issues, and, when necessary, (3) expeditiously forward the request through established DOD channels to DOC to facilitate timely resolution. Upon receipt of the request for special priorities assistance, DOC will take immediate action to effect resolution and will keep DOD advised of progress.

8. *Controlled Materials.*

The Secretary of Defense is delegated the authority to make allotments of controlled materials to other agencies in support of authorized defense programs.

9. *Compliance, Audits, and Training.*

In exercising this delegation, the Secretary of Defense should ensure that both DOD personnel and defense contractors are in full compliance with the provisions of the DPAS regulation. Accordingly:

(a) The Secretary of Defense is delegated the authority to review the implementation of the DPAS by all persons who are in receipt of rated orders supporting DOD programs. However, this review shall not include inquiries into any unrated activities of these persons.

(b) The Secretary of Defense shall notify DOC of any alleged violations of the priorities and allocations provisions of the Defense Production Act or the DPAS regulation.

(c) The Secretary of Defense should conduct a continuing training program to ensure that appropriate DOD and contractor personnel are thoroughly familiar with the provisions of the DPAS and this delegation.

10. *Limitations of Authority.*

(a) This delegated authority shall not be used for (1) civilian items for resale in Military Exchanges or the packaging for such items; (2) material purchased from exclusively retail establishments; (3) procurement of items to be used primarily for administrative purposes, such as for personnel or financial management; or (4) direct procurement by or for DOD of any items specifically set forth in the Statement of Conditions to this delegation (not published).

(b) This delegation shall be implemented in accordance with the DPAS regulation, the Statement of Conditions to this delegation (not published); and any other regulations or official actions issued by DOC. It does not limit the authority of the Secretary of Commerce under Executive Order 10480 or other authority.

11. *Redelegations of Authority.*

The authority granted by this delegation may be redelegated within DOD and to other agencies of the United States administering DOD programs. Any redelegations of such authority shall be made in writing with a copy furnished to DOC. No other redelegations of such authority shall be made without the prior written approval of DOC.

12. *Effective Date and Revocation of Previous Delegations.*

This delegation of authority shall take effect thirty (30) days after publication in the **Federal Register** revoking all previous delegations issued by DOC to DOD relating to these authorities.

Dated: June 21, 1984.

Walter J. Olson,

Deputy Assistant Secretary of Commerce for Export Administration.

DPAS DEL. 2—Delegation of Authority to the Secretary of Energy; Defense Priorities and Allocations System (15 CFR Part 350)

1. *Authority.*

Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*); Executive Order 10480, 18 FR 4939, 3 CFR 1949–1953 Comp., p. 962, as amended; Executive Order 11912, 41 FR 15825, 3 CFR 1976 Comp., p. 114, as amended; Executive Order 12148, 44 FR 43239, 3 CFR 1979 Comp., p. 393, as amended; Defense Mobilization Order (DMO) 3, 44 CFR 322; and DMO–13, 44 CFR 330.

2. *Purpose.*

(a) This document delegates certain authority to the Secretary of Energy necessary to the effective implementation of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350).

(b) Certain specifics concerning the implementation of this delegated authority are contained in a Statement of Conditions to this delegation issued by the Office of

Industrial Resource Administration (OIRA), Department of Commerce (DOC).

3. *Rating Authority.*

(a) The Secretary of Energy is delegated the authority to place rated contracts and orders in support of Department of Energy (DOE) programs for national defense authorized by the Director, Federal Emergency Management Agency.

(b) The Secretary of Energy, in accordance with Executive Order 11912, is delegated the authority to make the findings required by Section 101(c) of the Defense Production Act of 1950, as amended, that specified material or equipment is critical and essential:

(1) To maintain or further domestic exploration, production, or refining;

(2) To conserve energy supplies; or

(3) To construct or maintain energy facilities.

(c) The Secretary of Energy is delegated the authority to use the DX rating symbol in placing rated orders for those authorized programs determined by the President to be of the Highest National Priority as described in the DOD Master Urgency List.

4. *Production and Construction Equipment.*

(a) The Secretary of Energy may authorize persons to place rated orders for delivery of production equipment required to support authorized atomic energy programs, when the equipment is necessary for the timely performance of rated orders and timely delivery of the equipment cannot be obtained otherwise.

(b) The Secretary of Energy may authorize persons to place rated orders for delivery of construction equipment, when the equipment is to be used for authorized atomic energy construction projects and timely delivery of the equipment cannot be obtained otherwise.

5. *Delivery Scheduling.*

The Secretary of Energy is delegated the authority to reschedule deliveries of materials which are required in support of DOE programs, provided that such authority shall be used (1) only to reschedule deliveries among contracts or orders assigned priority ratings by DOE, and (2) only to the extent that such rescheduling of deliveries requires no change in production schedules of other rated orders.

6. *Special Priorities Assistance.*

The Secretary of Energy may sponsor requests by persons for special priorities assistance upon determining the defense or energy-related urgency of the requested assistance. DOE will: (1) serve as the initial point of contact for persons needing assistance, (2) verify the accuracy of the information provided and make reasonable efforts to resolve the issues, and when necessary, (3) expeditiously forward the request through established DOE channels to DOC to facilitate timely resolution. Upon receipt of the request for special priorities assistance, DOC will take immediate action to effect resolution and will keep DOE advised of progress.

7. *Compliance, Audits, and Training.*

In exercising this delegation, the Secretary of Energy should ensure that both DOE personnel and defense contractors are in full compliance with the provisions of the DPAS regulation. Accordingly:

(a) The Secretary of Energy is delegated the authority to review the implementation of the DPAS by all persons who are in receipt of rated orders supporting DOE programs. However, this review shall not include inquiries into any unrated activities of these persons.

(b) The Secretary of Energy shall notify DOC of any alleged violations of the priorities and allocations provisions of the Defense Production Act or of the DPAS regulation.

(c) The Secretary of Energy should conduct a continuing training program to ensure that appropriate DOE and contractor personnel are thoroughly familiar with the provisions of the DPAS and this delegation.

8. *Limitations of Authority.*

(a) This delegated authority shall not be used for (1) material purchased from exclusively retail establishments; (2) procurement of items to be used primarily for administrative purposes, such as for personnel or financial management; or (3) direct procurement by or for DOE of any items specifically set forth in the Statement of Conditions to this delegation (not published).

(b) Priority ratings to support the maximization of domestic energy supplies provided by Section 101(c) of the Defense Production Act of 1950, as amended, may only be used after the findings required by Section 101(c) have been made:

(1) The Secretary of Energy must determine that the energy program involved maximizes domestic energy supplies; and find that the specific material or equipment is critical and essential.

(2) The Secretary of Commerce must find that the specific material or equipment is scarce; and that there is a reasonable need to use the priorities and allocations authorities.

(c) This delegation shall be implemented in accordance with the DPAS regulation, the Statement of Conditions to this delegation (not published), and any other regulations and official actions issued by DOC. It does not limit the authority of the Secretary of Commerce under Executive Order 10480 or other authority.

9. *Redelegations of Authority.*

The authority granted by this delegation may be redelegated within DOE and to other agencies of the United States administering DOE programs. Any redelegations of such authority shall be made in writing with a copy furnished to DOC. No other redelegations of such authority shall be made without the prior written approval of DOC.

10. *Effective Date and Revocation of Previous Delegations.*

This delegation of authority shall take effect thirty (30) days after publication in the **Federal Register**, revoking all previous delegations issued by DOC relating to these authorities.

Dated: June 21, 1984.

Walter J. Olson,

Deputy Assistant Secretary of Commerce for Export Administration.

DPAS DEL. 3—Delegation of Authority to the Administrator of General Services; Defense Priorities and Allocations System (15 CFR Part 350)

1. *Authority.*

Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*); Executive Order 10480, 18 FR 4939, 3 CFR 1949–1953 Comp., p. 962, as amended; and Defense Mobilization Order (DMO) 3, 44 CFR 322.

2. *Purpose.*

(a) This document delegates certain authority to the Administrator of General Services necessary to the effective implementation of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350).

(b) Certain specifics concerning the implementation of this delegated authority are contained in a Statement of Conditions to this delegation issued by the Office of Industrial Resource Administration (OIRA), Department of Commerce (DOC).

3. *Rating Authority.*

The Administrator of General Services is delegated the authority to place DO rated contracts and orders in support of the General Services Administration's (GSA) Supply Distribution Program for items acquired for authorized programs of the Departments of Defense and Energy. In placing rated orders, GSA is to use the program identification symbol K1.

4. *Special Priorities Assistance.*

The Administrator of General Services may sponsor requests by persons for special priorities assistance upon determining the defense urgency of the requested assistance. GSA will: (1) serve as the initial point of contact for persons needing assistance, (2) verify the accuracy of the information provided and make reasonable efforts to resolve the issues, and when necessary, (3) expeditiously forward the request through established GSA channels to DOC to facilitate timely resolution. Upon receipt of the request for special priorities assistance, DOC will take immediate action to effect resolution and will keep GSA advised of progress.

5. *Compliance, Audits, and Training.*

In exercising this delegation, the Administrator of General Services should ensure that both GSA personnel and defense contractors are in full compliance with the provisions of the DPAS regulation. Accordingly:

(a) The Administrator of General Services is delegated the authority to review the implementation of the DPAS by all persons who are in receipt of rated orders supporting the GSA Supply Distribution Program. However, this review shall not include inquiries into any unrated activities of these persons.

(b) The Administrator of General Services shall notify DOC of any alleged violations of the priorities and allocations provisions of the Defense Production Act or the DPAS regulation.

(c) The Administrator of General Services should conduct a continuing training program to ensure that appropriate GSA and contractor personnel are thoroughly familiar with the provisions of the DPAS and this delegation.

6. *Limitations of Authority.*

(a) This delegation is restricted to the GSA Supply Distribution Program and shall be implemented in accordance with the DPAS regulation, the Statement of Conditions to this delegation (not published), and any other regulations and official actions issued by DOC. It does not limit the authority of the Secretary of Commerce under Executive Order 10480 or other authority.

(b) This delegated authority shall not be used for (1) material purchased from exclusively retail establishments; (2) procurement of items to be used primarily for administrative purposes, such as for personnel or financial management; or (3) direct procurement by or for GSA of any items specifically set forth in the Statement of Conditions to this delegation (not published).

7. *Redelegations of Authority.*

The authority granted by this delegation may be redelegated within GSA. Any redelegations of such authority shall be made in writing with a copy furnished to DOC. No other redelegations of such authority shall be made without the prior written approval of DOC.

8. *Effective Date and Revocation of Previous Delegations.*

This delegation of authority shall take effect thirty (30) days after publication in the **Federal Register**, revoking all previous delegations issued by DOC to GSA relating to these authorities.

Dated: June 21, 1984.

Walter J. Olson,

Deputy Assistant Secretary of Commerce for Export Administration.

DPAS DEL. 4—Delegation of Authority to the Director of the Federal Emergency Management Agency; Defense Priorities and Allocations System (15 CFR Part 350)

1. *Authority.*

Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*); Executive Order 10480, 18 FR 4939, 3 CFR 1949–1953 Comp., p. 962, as amended; and Defense Mobilization Order (DMO) 3, 44 CFR 322.

2. *Purpose.*

(a) This document delegates certain authority to the Director, Federal Emergency Management Agency (FEMA), necessary to the effective implementation of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350).

(b) Certain specifics concerning the implementation of this delegated authority are contained in a Statement of Conditions to this delegation issued by the Office of Industrial Resource Administration (OIRA), Department of Commerce (DOC).

3. *Rating Authority.*

The Director of FEMA is delegated the authority to place, and upon application, to authorize state and local governments to place, DO rated contracts and orders in support of federal, state, and local civil defense programs or projects approved by FEMA as directly related to programs for the national defense. In placing rated orders, FEMA and the state and local governments are to use the program identification symbol N1.

4. *Special Priorities Assistance.*

The Director of FEMA may sponsor requests by persons for special priorities assistance upon determining the defense urgency of the requested assistance. FEMA will: (1) serve as the initial point of contact for persons needing assistance, (2) verify the accuracy of the information provided and make reasonable efforts to resolve the issues, and when necessary, (3) expeditiously forward the request through established FEMA channels to DOC to facilitate timely resolution. Upon receipt of the request for special priorities assistance, DOC will take immediate action to effect resolution and will keep FEMA advised of progress.

5. *Compliance, Audits, and Training.*

In exercising this delegation, the Director of FEMA should ensure that FEMA personnel, federal, state, and local officials, and defense contractors are in full compliance with the provisions of the DPAS regulation. Accordingly:

(a) The Director of FEMA is delegated the authority to review the implementation of the DPAS by all persons who are in receipt of, or, authorized to place, rated orders supporting the FEMA approved federal, state and local civil defense programs or projects. However, this review shall not include inquiries into any unrated activities of these persons.

(b) The Director of FEMA shall notify DOC of any alleged violations of the priorities and allocations provisions of the Defense Production Act or the DPAS regulation.

(c) The Director of FEMA should conduct a continuing training program to ensure that appropriate FEMA personnel, federal, state, and local officials, and contractor personnel are thoroughly familiar with the provisions of the DPAS and this delegation.

6. *Limitations of Authority.*

(a) This delegation is restricted to federal, state, and local civil defense programs and projects approved by FEMA as directly related to programs for the national defense, and shall be implemented in accordance with the DPAS regulation, the Statement of Conditions to this delegation (not published), and any other regulations and official actions issued by DOC. It does not limit the authority of the Secretary of Commerce under Executive Order 10480 or other authority.

(b) This delegated authority shall not be used for (1) material purchased from exclusively retail establishments; (2) procurement of items to be used primarily for administrative purposes, such as for personnel or financial management; or (3) direct procurement by or for FEMA of any items specifically set forth in the Statement of Conditions to this delegation (not published).

7. *Redelegations of Authority.*

The authority granted by this delegation may be redelegated within FEMA. Any redelegations of such authority shall be made in writing with a copy furnished to DOC. No other redelegations of such authority shall be made without the prior written approval of DOC.

8. *Effective Date of Delegation.*

This delegation of authority shall take effect thirty (30) days after publication in the **Federal Register**.

Dated: June 21, 1984.

Walter J. Olson,

Deputy Assistant Secretary of Commerce for Export Administration.

Appendix II to Part 350—Interagency Memorandum of Understanding

Departments of Agriculture and Commerce—Memorandum of Understanding Between the Departments of Agriculture and Commerce Concerning Priorities and Allocations Jurisdiction and Responsibilities for Foods Which Have Industrial Uses

A. Purpose

This Understanding sets forth the priorities and allocations jurisdiction and responsibilities of the Department of Agriculture (Agriculture) and the Department of Commerce (Commerce) for defense mobilization in the event of a national emergency, and for emergency preparedness functions, as they relate to foods which have industrial uses.

B. Authority

1. Section 201(a) of Executive Order 10480, as amended (E.O. 10480), and Defense Mobilization Order 3 (DMO 3) (44 CFR 322) provide for the delegation of authority for the administration of priorities and allocations functions under the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*), to the Secretary of Agriculture with respect to food; and to the Secretary of Commerce with respect to all other materials and facilities not specifically delegated to other agencies.

2. Section 901 *et seq.* of Executive Order 11490, as amended (E.O. 11490), delegates to the Secretary of Commerce the authority for preparing national emergency plans and developing preparedness programs covering the production and distribution of all materials and the use of all production facilities, except those that are specifically assigned to, or under the jurisdiction of other agencies. Section 801 *et seq.* of E.O. 11490 provides for the delegation of authority with respect to the production, processing, distribution, and storage of food resources, and the use of food resource facilities, to the Secretary of Agriculture.

3. Section 601(h) of E.O. 10480 defines the term "food" as:

* * * all commodities and products, simple, mixed, or compound or complements to such commodities or products, that are capable of being eaten or drunk by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption * * *. The term "food" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but shall not include any such material after it loses its identity as an agricultural commodity or agricultural product.

Section 802(1) of E.O. 11490 defines the term "food resources" in the same language.

Accordingly, these terms are used interchangeably in this Understanding.

4. The functions delegated by these authorities to the Secretaries of Agriculture and Commerce have been redelegated by the Secretary of Agriculture to the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and by the Secretary of Commerce to the Director, Office of Industrial Resource Administration (OIRA).

C. General Provisions

1. This Understanding covers only food and agricultural commodities and products which have industrial uses. Jurisdiction over such commodities will normally pass to Commerce at the point where the foods are no longer capable of being eaten or drunk, except as otherwise provided.

2. The provisions of this Understanding covering fibers are limited to those specifically mentioned in E.O. 10480 and 11490 (*i.e.*, cotton, wool, mohair, hemp and flax fiber), and have the purpose of defining the points at which these fibers lose their identity as agricultural commodities or agricultural products.

3. Both Agriculture and Commerce have jurisdiction over the major food commodities listed in section D of this Understanding. For each of these commodities, the point at which the jurisdiction of Agriculture will end is indicated and, except as otherwise provided, the jurisdiction of Commerce will begin at that point.

(a) The points at which the jurisdiction of Agriculture will terminate are expressed in terms of a particular stage of production or processing pursuant to the authority provided in E.O. 10480 and 11490, and at a point considered to be most administratively feasible.

(b) Consideration is given wherever possible to the structure of an industry. The wet-milling industry, for example, is large and integrated and it is desirable that Agriculture have jurisdiction over the raw products while they are a part of this industry and until they enter the processes of other industries which result in their becoming nonfood or nonagricultural products. As an illustration, corn starch for textile sizing would be under the jurisdiction of Agriculture while it is being extracted from the corn and prepared for use by the textile industry. It would still be under the jurisdiction of Agriculture until it enters the textile manufacturing process. At this point, jurisdiction over this commodity shifts to Commerce.

(c) Commodities such as fats and oils, grain products, egg products, starch from all sources, spices, and tartaric acid are used for the manufacture of so many nonfood or nonagricultural products that it is not practical to enumerate all of these products in section D and to identify in each case the exact beginning process. Consequently, the principle for determining the respective jurisdiction of the two Departments in cases of this type is expressed broadly and supplemented by a few examples of nonfood and nonagricultural products so as to clarify the application of the principle. These examples are not intended to be all-inclusive.

4. Imports and exports of food and agricultural commodities and products in any form prior to industrial uses are within the jurisdiction of Agriculture, subject to meeting requirements that may be imposed by any other agency in the exercise of its authority.

5. Agriculture will, with noted exceptions, allocate and exercise priority controls on food and agricultural commodities and products, taking into account claims presented by Commerce. However, the suballocation of food and agricultural commodities or products for conversion into non-food and non-agricultural commodities or products will be made in accordance with the recommendations of Commerce.

6. It is understood that relationships between Agriculture and Commerce involving jurisdiction over particular functions and particular commodities may have to be amplified at a later time. It is also recognized that there will be situations in which operations of the same person, as defined in Section 702(a) of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2152(a)), will be affected by the exercise of the respective authorities of the two Departments under this Understanding. To avoid overlapping and duplication of reporting and related operations in such situations, it is agreed that the two Departments will work out specific cooperative arrangements whereby the facilities of one shall be utilized by the other and that efforts will be made to provide the most feasible arrangements for administering necessary program controls.

7. To assure that both Agriculture and Commerce have full authority to implement their respective responsibilities under E.O. 10480 and 11490, and DMO 3, as well as to effectuate the provisions of this Understanding, each Department delegates to the other the requisite authority for the exercise of priorities and allocations functions as set forth in this Understanding.

D. Particular Commodities

The following list identifies some major food and agricultural commodities and commodity groups in which both Agriculture and Commerce have an interest and provides the point at which Agriculture's jurisdiction ends and Commerce's jurisdiction begins. This list is not all-inclusive but it does cover the major items for which jurisdiction might become an issue.

1. Agriculture shall have jurisdiction over the following commodities until they enter any manufacturing process and lose their identity as food or as agricultural commodities or products (examples are set forth in parentheses after the name of the commodity):

(a) Egg products. (Shampoos, products used in printing, pharmaceuticals)

(b) Fats and oils. (Paints, soap, varnishes, lacquers, printer's ink, cosmetics, pharmaceuticals)

(c) Fatty acids. (Paints, soap, cosmetics, chemicals, pharmaceuticals)

(d) Grain and grain products, including dextrin, corn syrups, grain sugars, lactic acid, gluten, and low-grade wheat flour. (Textiles, adhesives, leather, core binders, pharmaceuticals, nonbeverage alcohol)

(e) Molasses, including blackstrap and high-test, and potatoes. (Nonbeverage alcohol)

(f) Spices, essential oils. (Cosmetics)

(g) Starches. (Adhesives, asbestos, textiles, explosives)

(h) Sugars. (Insecticides, plasticizing agents, adhesives)

(i) Tartaric acid. (Products used in photography, dyeing, textile printing)

2. Agriculture shall have jurisdiction over the following commodities until the specifically designated point in their processing, except as otherwise provided:

(a) Cotton lint and linters, hemp and flax fiber—When the bale is opened for the purpose of processing in the mill in which it is opened. This authority shall extend to the delivery and distribution of soft types of cotton waste but shall not include control over the use of such waste in the mill producing it.

(b) Milk and milk products—When the milk and milk products enter a plant where they are to be used or processed for industrial purposes as distinct from use as human food or animal feed. Agriculture shall have jurisdiction over imports of milk and milk products intended for use as human food or animal feed, while Commerce shall have jurisdiction over imports intended for industrial purposes only.

(c) Wool and mohair—When the wool and mohair (grease and scoured, shorn and pulled) enter a plant where they are to be used, or manufactured into a final product. Inventories of scoured wool or scoured mohair held by manufacturers for their use in producing other products, whether by incorporation into such products or otherwise, shall be controlled by Commerce. The jurisdiction of Agriculture shall extend to the delivery and distribution of noils but shall not include control over the use of noils by the mill producing them.

(d) Naval stores:

(1) Tall oil (sulfate naval stores). Commerce shall have jurisdiction over the production, distribution, processing, and allocation. The distribution of tall oil fatty acids shall be under the jurisdiction of Agriculture.

(2) Wood. Commerce shall have jurisdiction over production, distribution, processing, and allocation.

(3) Gum. Agriculture shall have jurisdiction over production through the first processing of the gum. Commerce shall have jurisdiction over allocation.

(4) Commerce will consult with Agriculture before allocating naval stores in order to avoid conflict with programs administered by Agriculture.

3. The following commodities are under the jurisdiction of the designated Department:

(a) Ice—Agriculture.

(b) Tobacco and tobacco products—Agriculture.

(c) Hides and leather, hair and bristles, feathers, soap. detergents, beeswax, pharmaceuticals (including medicines and vitamins), acetic acid, chemical leavening compounds and salt—Commerce.

4. In order to further clarify the division of authority for fats and oils, Schedule A to this Understanding lists major fats and oils, and fat and oil products, over which Agriculture has jurisdiction and the major products of

fats and oils, and products produced using fats and oils, over which Commerce has jurisdiction.

5. It is recognized that quantities of certain commodities may be needed for food use which are under the jurisdiction of Commerce. Conversely, raw materials for manufacturing may be needed which are under the jurisdiction of Agriculture. In situations of this kind and for other similar commodities not listed in this section, working arrangements will be developed between ASCS and OIRA as the need arises pursuant to the principles set forth in this Understanding.

E. Effective Date

This Memorandum of Understanding supersedes the Memorandum of Agreement between the Administrators of the Agricultural Marketing Service and the ASCS of the Department of Agriculture, and the Acting Deputy Assistant Secretary for Competitive Assessment and Business Policy of the Department of Commerce, concerning foods which have industrial uses, and signed by them on November 2, 7, and 10, 1973, respectively (38 FR 33504, December 5, 1973); and shall take effect thirty (30) days after publication in the **Federal Register.**

Department of Agriculture

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service

Date: June 15, 1984.

Department of Commerce

John A. Richards,

Director, Office of Industrial Resource Administration

Date: June 14, 1984

Schedule A—Jurisdiction Over Fats and Oils

I. Fats and oils and fats and oils products under the jurisdiction of Agriculture:

A. Animal and marine.

1. Animal fats

Lard	Wool grease and lanoline
Marrow	Neats foot oil
Tallows and greases	

2. Marine oils

Cod	Salmon
Dogfish	Sardine
Fulachon	Seal
Herring	Shark
Menhaden	Whale
Pilchard	

3. Marine liver oils

Cod	Swordfish
Dogfish	Tuna fish
Shark	

4. Other animal and marine fats and oils

Fatty acids	Oleo oil and oleo searin
Foots	Soap stocks

B. Vegetable.

1. Vegetable fats and oils

Cocoa butter	Olive residue
Fatty acids	Soap stocks
Lecithin	Tallows and greases
Oiticic	

2. Major vegetable oils

Babassu nut	Palm kernel
Castor	Peanut
Corn	Rapeseed
Coconut	Safflower seed
Cottonseed	Sesame
Linseed	Soybean
Olive	Sunflower seed
Palm	Tung

3. Other vegetable oils

Cashew nut	Ouricury
Cohune	Perilla
Colza	Poppy seed
Hemp seed	Rubber seed
Kapok seed	Tea seed
Murumuru	Tucum
Mustard	

C. Edible fats and oils products, including:

Butter	Margarine
Cooking oil and compounds	Salad oils
Lard compounds	Shortenings

D. Combinations and mixtures of animal, marine, vegetable, nut and seed fats and oils, or any of them.

II. Products of fats and oils and products produced using fats and oils under the jurisdiction of Commerce:

Coated fabrics and floor coverings
Glycerine
Inedible products of fats and oils
Paints, varnishes, lacquers
Printer's ink
Soap

Departments of Agriculture and Commerce—Memorandum of Understanding Between the Departments of Agriculture and Commerce Concerning Priorities and Allocations Jurisdiction and Responsibilities for Farm Equipment

A. Purpose

This Understanding sets forth the priorities and allocations jurisdiction and responsibilities of the Department of Agriculture and the Department of Commerce for defense mobilization in the event of a national emergency, and for emergency preparedness functions, as they relate to the domestic distribution of farm equipment.

B. Authority

1. Section 201(a) of Executive Order 10480, as amended (E.O. 10480), and Defense Mobilization Order 3 (DMO 3) (44 CFR 322) provide for the delegation of authority for the administration of priorities and allocations functions under the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*), to the Secretary of Agriculture with respect to the domestic distribution of farm equipment; and to the Secretary of Commerce with respect to all other materials and facilities not specifically delegated to other agencies.

2. Section 601(i) of E.O. 10480 defines the term "farm equipment" to mean equipment manufactured for use on farms in connection with the production or processing of food.

3. Section 901 *et seq.* of Executive Order 11490, as amended (E.O. 11490), delegates to the Secretary of Commerce the authority for preparing national emergency plans and developing preparedness programs covering the production and distribution of all materials and the use of all production facilities, except those that are specifically assigned to, or under the jurisdiction of other agencies. Section 801 *et seq.* of E.O. 11490 provides for the delegation of this authority with respect to the domestic distribution of farm equipment to the Secretary of Agriculture.

4. The functions delegated by these authorities to the Secretaries of Agriculture and Commerce have been redelegated by the Secretary of Agriculture to the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and by the Secretary of Commerce to the Director, Office of Industrial Resource Administration (OIRA).

C. General Provisions

1. The term "farm equipment" as used in E.O. 10480 and 11490, for the purposes of this Understanding, includes only those items of machinery, equipment, attachments, and repair or replacement parts identified in Schedule A to this Understanding.

2. In a national emergency or mobilization situation, OIRA may request ASCS to make special distribution of the farm equipment items listed in Schedule A that can be used off the farm for civil defense and life saving purposes. ASCS will give full consideration to these requests in accordance with the priorities and allocations policies of the Federal Government in effect at that time.

D. Effective Date

This Memorandum of Understanding supersedes the Memorandum of Understanding and Agreement between the Administrator of the ASCS of the Department of Agriculture, and the Acting Deputy Assistant Secretary for Competitive Assessment and Business Policy of the Department of Commerce, concerning the scope of the term "Farm Equipment", and signed by them on November 7 and 10, 1973, respectively (38 FR 34749, December 5, 1973); and shall take effect thirty (30) days after publication in the **Federal Register.**

Department of Agriculture

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service

Date: June 15, 1984.

Department of Commerce

John A. Richards,

Director, Office of Industrial Resource Administration

Date: June 14, 1984.

Schedule A—Farm Equipment

Tractors, Wheel, Manufactured Specifically for Farm Use

Farm Tractors, 2-Wheel Drive, 20 to 39 PTO HP
Farm Tractors, 2-Wheel Drive, 40 to 99 PTO HP
Farm Tractors, 2-Wheel Drive, Over 100 PTO HP
Farm Tractors, 4-Wheel Drive.

Tillage Equipment

Bedders, Bed Levelers, Shapers, and Splitters
Blockers and Thinners, row crop

Cultivators, Field, Row Crop, Tobacco and Vineyard, mounted and pull type
Harrows, including: spike-tooth, spring-tooth, tine-tooth, disk, rotary, offset, knife, oscillating, bush and bog, and tandem disk
Land Levelers
Middlebusters, Ridgebusters, and Clodbusters
Mulch Tillage Implements
Plows, including: moldboard, chisel, ditching, terracing, and one-way disk
Pulverizers, stalk
Ridgelevelers
Rod Weeders
Rotary Hoes and Tillers, field type
Rollers and Cultipackers, including combination harrow-packers
Shredders, brush and stalk, bush hog
Stubble Shavers, cane
Subsoilers, Tractor mounted and pull-type
Tillers, basin and disk
Tool bars and carriers
Transport carriers, farm implement

Fertilizing and Liming Equipment

Anhydrous Ammonia Applicators, Pumps, Tanks and Tank Wagons
Dry and Liquid Fertilizer Attachments for Drills and Planters
Fertilizer Distributors and Applicators
Fertilizer storage bins and tanks
Pumps, Liquid Fertilizer
Side-Dressing attachments
Spreaders, Lime and Fertilizer, Tractor or Truck mounted and pull type
Sprayers, Liquid fertilizer, Truck mounted and pull type

Planting Equipment

Drills and Planters, including fertilizer attachments
Grass Seeder, Broadcast-type, Tractor mounted or pull type
Grass Seeder attachments, Drill and Tillage equipment
Listers
Planters, Minimum or no Tillage, Tractor mounted or pull type
Potato Planters, Brushers, Cutters, and Desprouters
Seeders
Transplanters

Agricultural Dusters and Sprayers

Dusters, Crop, Field, Livestock, Poultry, Orchard, and Vineyard
Foggers and Mist Blowers
Granular Chemical Applicators, Broadcast and Band-type
Herbicide Applicators, Low Volume
Sprayers, Field, Livestock, Poultry, Orchard, and Vineyard, Air Mist, Boomtype and Boomless, Trailer or Tractor mounted and self-propelled

Harvesting Equipment

Augers, Conveyors and Elevators, farm type, portable and stationary, with or without wheels
Bunchers and Tiers, Vegetable, farm type
Combines, Harvester-thresher, self-propelled and pull type, including corn head and windrow attachments
Corn Cribs
Corn Pickers and Picker-shellers, self-propelled, pull type, and semi-mounted
Cotton Pickers and Strippers, self-propelled, Tractor mounted and pull type
Crop and Grain Dryers and Fans, batch, bin, and continuous operation types
Curers, Tobacco
Grain Bins, including: perforated floors, ladders, spreaders, stirring devices, unloaders, and ventilation equipment
Grain Blowers
Harvesters, Harvesting and Handling Equipment for Corn, Grain, Vegetables, Peanuts, Tobacco, Onions and Nuts
Hullers, Graders, Sorters, Sackers, Conveyors, farm type for Potatoes, Fruit, Vegetables, Grain, Seed and Nuts
Orchard and Vineyard Pruning Equipment, power
Peanut Drying Equipment
Potato Diggers, Pickers and Baggers
Power Units for Harvesting Equipment, self-propelled
Sugar Beet Harvesters, Toppers, Lifters, and Loaders
Sugar Cane Harvesting Equipment
Toppers, Crop and Vegetable
Windrowers and Swathers, Dry Edible Beans and Pea Vine

Hay and Forage Harvesting Equipment

Balers, Twine, and Wire, self-propelled and pull type, including round bale type
Forage Blowers and Cutter Blowers, Pipe, and Spouts
Forage Harvesters, self-propelled, Tractor mounted and pull type
Forage Wagons and Boxes, running gear and truck mounted
Giant Hay Balers, Stackers and Transportation Equipment
Hay Tedders
Hay Wafering and Cubing Machines
Mowers, Choppers, conditioners, Mower-conditioners, and Windrowers, field, flail, rotary, or sickle bar, mounted or pull type
Rakes, side delivery
Loaders, loose hay
Loaders, Stackers and Bale Throwers

Dairy, Poultry and Livestock Equipment

Barn Manure Cleaners, dairy, livestock and poultry types
Bale Feeders, giant-size Bale and Stack types
Brooders, poultry and hog
Bunk Feeder Systems, including: Wagon or truck-mounted feeder boxes
Carriers, Hay, Litter and Feed, overhead and track type
Dairy Barn Equipment, including: pens, stanchions and stalls
Egg Gathers and Collecting Systems, automatic
Egg Room Coolers and Humidifiers
Egg Graders, Candlers and Washers
Feed Mills, Grinder-mixers, Roller Mills, and Mixers, stationary and portable
Feed Storage Bins and Tanks, elevated, bulk
Feed and Grain Metering Devices
Feeders and Waterers, cattle, sheep, hog and poultry, automatic and manual
Hog Confinement Systems, Farrowing Stalls and Feeding Systems
Incubators, poultry
Livestock Confinement Buildings, including: feeding, watering, ventilation and cleaning systems
Livestock Handling Gates, Pens and Chutes
Liquid Manure Pumps and Tanks
Manure Loaders, Tractor mounted
Milk Cooling Tanks, bulk and can type
Milking Machines, Pipelines and Transfer Stations
Milk Room Equipment, including: water heaters, sterilizing and washing tanks
Milking Parlor Stalls, including: feeding systems
Poultry Cages, Feed and Water Systems
Silo, upright and concrete trench-type
Silo Unloaders, upright and trench-type, top or bottom
Silo-filling Equipment, including: pipe and distribution equipment
Spreaders, Barn and Liquid Manure
Tanks, Livestock, Dipping and Stock Water
Ventilation Systems, automatic, electric

Water Supply Equipment

Jacks, Pump
Pumps, Hand, Windmill, electric, PTO and motor-powered
Water Systems including: storage and/or pressure tanks, domestic and farmstead, deep and shallow well, jet and non-jet

Irrigation Equipment

Ditch Gates, Furrow Openers, Levee Plows
Pipe, Couplers, Valves and Sprinkler Heads
Systems Controls, automatic and center pivot
Systems Pumps, deep well, shallow well and surface water supply type

Other Farm Equipment, N.E.C.

Alcohol Distilling Plants, farm type
Chain Saws
Cleaners and Graders, farm type, grain and seed
Diggers, post-hole, Tractor mounted, farm type
Electric Generating Plants, farm type, continuous duty and standby, Tractor or motor powered
Fencing Materials
Log Skidders and Splitters
Post Drivers and Pullers, power, farm type
Tracks, Crawler, combine and wheel Tractor
Wagon Running Gears, farm type
Wagon Boxes, including: Auger unloading, barge and flare, bunk feeding, forage, feed-mixing, gravity and hydraulic dump
Windmill Towers and Heads

Repair and Replacement Parts

Parts manufactured specifically for use in the maintenance and repair of the farm equipment (including plowshares and disk blades) listed in this Schedule.

Departments of Energy and Commerce—Memorandum of Understanding Between the Departments of Energy and Commerce Concerning the Jurisdiction and Responsibilities for Products and Equipment Associated with the Production of Petroleum and Gas for Emergency Preparedness and Mobilization

A. Purpose

This Understanding sets forth the jurisdiction and responsibilities of the Department of Energy (DOE) and the Department of Commerce (DOC) for defense mobilization, emergency preparedness, and resource management programs under the authorities listed in section B, in the event of a national emergency, as such programs relate to the production and distribution of: (1) chemicals and fluids made especially for use in the petroleum and gas industry; (2) oil and gas field machinery and equipment; and (3) petrochemicals derived from oil, gas, and natural gas liquids.

B. Authority

1. Pursuant to section 201(a) of Executive Order 10480, as amended (E.O. 10480), Defense Mobilization Order 3 (DMO 3) (44 CFR 322) delegates authority for the administration of priorities and allocations functions under the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*), to the Secretary of Energy with respect to petroleum, gas, solid fuels, and electric power; and to the Secretary of Commerce with respect to all other materials and facilities not specifically delegated to other agencies.

2. Executive Order 11490, as amended (E.O. 11490), delegates to the Secretary of Commerce the authority for preparing national emergency plans and developing preparedness programs covering the production and distribution of all materials, and the use of all production facilities except those that are specifically assigned to, or under the jurisdiction of, other agencies. Such an exception is provided for the production and distribution of, and the use of facilities for, petroleum and gas. E.O. 11490 provides for the delegation of this authority to the Secretary of Energy.

3. The functions delegated by these authorities to the Secretaries of Energy and Commerce have been redelegated by the Secretary of Energy to the Assistant Secretary for Environmental Protection, Safety, and Emergency Prepareness, and by the Secretary of Commerce to the Director, Office of Industrial Resource Administration (OIRA).

C. Departmental Jurisdiction

The primary use of a product or material is the basis for the division of Departmental jurisdiction set forth below. Any product or material not specifically identified in this Understanding which is used primarily as a fuel or in a primary manufacturing process to produce fuel, is under the jurisdiction of DOE. Generally, any non-fuel product or material, or any product or material which is used primarily as an industrial raw material, is under the jurisdiction of DOC. In the event that questions arise with respect to jurisdiction over particular products, materials, or production facilities, it is agreed that the two Departments will resolve these questions in such a manner as to provide the most feasible arrangements for program administration.

1. Production.

Department of Energy: DOE has jurisdiction over the production of: (a) petroleum and gaseous fuels, natural gas liquids, and petroleum lubricants, including "refinery finished products," "unfinished oils," and "petrochemical feedstocks"; (b) "petrochemicals" from processing units located within a petroleum refinery where the weight of "petrochemicals" in the output of the processing unit constitutes less than 30 percent by weight of the net input to the unit: (c) n-paraffin "petrochemical intermediates"; (d) "special petroleum chemical supplies"; and (e) any fossil fuel or synthetic product not specifically indentified which is or can be used as a fuel or lubricant.

Department of Commerce: DOC has jurisdiction over the production of: (a) all "chemicals" including "petroleum processing catalysts" and "fuel combustion improvers"; and (b) "petrochemicals" including those from processing units located within a petroleum refinery where the weight of "petrochemcials" in the output of the processing unit constitutes 30 percent or more by weight of the net input to the unit; and (c) oil and gas field machinery and equipment as identified in Schedule A to this Understanding, as well as any machinery, equipment, and technologies not yet developed for obtaining petroleum and natural gas.

2. Facilities.

Department of Energy: DOE has jurisdiction over all facilities for which production jurisdiction has been assigned to it by this Understanding.

Department of Commerce: DOC has jurisdiction over all facilities for which production jurisdiction has been assigned to it by this Understanding.

3. Distribution.

Department of Energy: DOE has jurisdiction over the distribution of: (a) all petroleum, gaseous fuels (when such jurisdiction as authorized by E.O. 11490 is not exercised by the Federal Energy Regulatory Commission), natural gas liquids, and petroleum lubricants: (b) all "special petroleum chemical supplies," "petroleum processing catalysts," and "fuel combustion improvers"; (c) "petrochemical feedstocks" except those produced or gathered specifically for a chemical operation; (e) any other fossil fuel or synthetic product which is or can be used as a fuel; and (f) oil and gas field machinery and equipment as identified in Schedule A to this Understanding, as well as any machinery, equipment, and technologies not yet developed for obtaining petroleum and natural gas.

Department of Commerce: DOC has jurisdiction over the distribution of: (a) all "chemicals" including "petrochemicals" but excluding those chemical product groups assigned to DOE; (b) "petrochemical feedstocks" specifically produced or gathered for a chemical operation; and (c) "non-fuel or non-lubricant petroleum products."

D. Definitions

Under this Understanding, the term "petroleum" means crude oil, synthetic liquid fuel, their products and associated hydrocarbons, including pipelines for their movement and facilities specially designed for their storage; and the term "gas" means natural gas (excluding helium) and manufactured gas (but not industrial gases), including pipelines for their movement and facilities specially designed for their storage, when such juridiction as authorized by E.O. 11490 is not exercised by the Federal Energy Regulatory Commission. For the purpose of assigning jurisdiction under this Understanding, the following additional definitions shall apply:

1. "Petrochemical Feedstocks"

Includes hydrocarbon materials obtained from petroleum and natural gas when used as "feedstock" or raw material for the production of "primary petrochemicals" or "petrochemical intermediates." These materials also include:

• *Natural gas* (methane) processed to a quality suitable for pipeline transmission;

• *Natural gas liquids* which are the several low boiling point, lower molecular weight hydrocarbons that include ethane, propane, butanes, pentanes, and liquified petroleum gases obtained from the processing of natural gas;

• *Naphtha* (light petroleum liquids) which is a medium boiling point range mixture of hydrocarbons obtained from the processing of natural gas, crude oil, or petroleum refining. Naphtha is the major component of gasoline. The usual distillation range of naphtha feedstock is 100–400°F; and

• *Gas oil* (heavy petroleum liquids) which is a high boiling point mixture of hydrocarbons obtained from the processing of crude oil or petroleum refining. Gas oil is the major component of distillate grades of fuel oil. Atmospheric gas oil may comprise hydrocarbons in the distillation range 400–650°F; vacuum gas oil may comprise higher boiling materials in the distillation range 650–1000°F.

2. "Chemicals"

For the purpose of this Understanding, "chemicals" shall comprise those products listed under Major Group 28, Chemical and Allied Products, Standard Industrial Classification Manual, 1977 Edition; and shall specifically include "petrochemicals," "petroleum processing catalysts," "fuel combustion improvers"; but shall exclude "special petroleum chemical supplies."

3. "Petrochemicals"

Chemical materials which, directly or indirectly, are manufactured from petrochemical feedstock hydrocarbons. These materials include:

• *Primary petrochemicals* produced directly from feedstocks by chemical conversion or breakdown and mainly used for the production of "intermediates" or petrochemical "products";

• *Petrochemical intermediates* generally produced by chemical converson of primary petrochemicals to form more complicated derived compounds. Such compounds serve as the raw material for synthesis of petrochemical "products," and for numerous other materials; and

• *Petrochemical products* which are end products of the chemical industry produced by chemical conversion of "primary" petrochemicals or petrochemical "intermediates."

4. "Refinery Finished Products"

Any one of the petroleum oils or mixtures of oils which can be used without further processing, including:

• Liquified petroleum gases (LPG);
• Gasoline;
• Jet fuel;
• Naphtha;
• Distillate fuel oils;

- Lubricating oils and greases;
- Residual fuel oils;
- Asphalt; and
- Natural gas products—natural gasoline.

5. "Unfinished Oils"

Semi-finished refinery products, or unseparated mixtures of refinery products, which are further processed for production of "refinery finished products."

6. "Special Petroleum Chemical Supplies"

Products made especially for use in the production, refining and compounding of petroleum fuels and lubricants, including:

- Hydrogen produced in a refinery for use in petroleum processing; and
- Special additives:

—for fuels and lubricants;
—to facilitate the drilling of oil and gas wells;
—to stimulate the production of oil and gas for enhanced oil recovery; and
—to facilitate the pipeline transmission of petroleum.

7. "Non-fuel or Non-lubricant Petroleum Products"

Certain products produced in the course of the refining of petroleum whose primary uses are other than as fuels or lubricants, such as:

- Asphalts;
- Coke, petroleum—green and calcined;
- Cresylic acids;
- Naphthenic acids;
- Oils, rubber extending;
- Solvents—aliphatic and aromatic hydrocarbons;
- Waxes, refined—paraffin and micro-crystalline; and
- White oils, petrolatums, and other oils for medicinal, pharmaceutical and cosmetic purposes.

8. "Petroleum Processing Catalysts"

Solid inorganic compositions used in petroleum refining to facilitate the conversion of hydrocarbons by chemical reaction, including:

- Catalytic cracking;
- Hydrocracking;
- Reforming;
- Isomerization;
- Desulfurization; and
- Hydrotreating.

9. "Fuel Combustion Improvers"

Chemical compostions added to liquid petroleum fuels to improve combustion characteristics, including:

- Ethanol (ethyl alcohol);
- Methanol (methyl alcohol);
- Methyl tertiary butyl ether;
- Tertiary butyl alcohol;
- Tetraethyl lead and tetramethyl lead, and their blends for use as anti-knock materials; and
- Other products such as amyl nitrate, hexyl nitrate, n-methyl aniline, and the manganese-methyl cyclopentadiene complexes.

E. Delegation of Authority

To ensure that DOE and DOC have the requisite authority to implement their responsibilities under E.O. 10480 and 11490, and DMO 3, as well as to effectuate the provisions of this Understanding, each Department delegates to the other its authority for the exercise of priorities and allocations functions under Section 101(a) of the Defense Production Act of 1950, as amended, with respect to the facilities, materials, and products specified in this Understanding.

F. Effective Date

This Memorandum of Understanding shall take effect thirty (30) days after publication in the Federal Register, superseding the Memorandum of Agreement between the Department of the Interior and the Department of Commerce that became effective on October 30, 1973 (38 FR 30896, November 8, 1973). The Department of the Interior's authority under this Memorandum of Agreement was transferred to the Department of Energy effective October 1, 1977, by Executive Order 12038 (43 FR 4957, February 7, 1978).

Department of Energy

H. A. Merklein

Assistant Secretary, International Affairs and Energy Emergencies

Date: July 10, 1984

Department of Commerce

John A. Richards,

Director, Office of Industrial Resource Administration

Date: June 20, 1984

Schedule A—Machinery and Equipment Required for the Discovery, Development, or Completion of Oil and Gas Wells

Exploration and Development Drilling

- Transportation (trucks, boats, helicopters)
- Drilling (rigs, pipes, pumps, engines, tanks, etc.)
- Drilling Fluids (weighting materials, chemicals, clays, etc.)
- Well Equipment (casing, carbon and alloy steel wellheads)

Completion

- Well Equipment (Christmas trees, tubing, liners, safety valves, etc.)
- Completion Equipment (workover or drilling rig, wireline unit)
- Well Services (sand control, acidizing, fracturing, cleanout)

Oil Production Facilities

- Pipe
- Structures
- Vessels
- Instruments
- Hardware and Accessories
- Associated Gas Facilities

Gas Production Facilities

- Field Gathering System
- Compression Facilities
- Processing Facilities

Artificial Lift Facilities

- Rod Pump
- Gas Lift
- Submersible Pumps
- Maintenance

Well Servicing

- Well Equipment
- Well Servicing Equipment
- Well Services
- Materials

Enhanced Recovery

- Waterflooding
- Gas Injection
- Tertiary Processes

Departments of the Interior and Commerce—Memorandum of Understanding Between the Departments of the Interior and Commerce Concerning the Jurisdiction and Responsibilities for Certain Minerals, Facilities and Materials; and Delegation of Authority

A. Purpose

This Understanding sets forth the jurisdiction and responsibilities of the Department of the Interior and the Department of Commerce for defense mobilization, emergency preparedness programs, and resource management in the event of a national emergency as they relate to stages of processing and types of facilities concerning certain minerals. This Understanding also provides for a delegation of certain authority to the Secretary of the Interior which is presently assigned to the Secretary of Commerce.

B. Authority

1. Section 201(a) of Executive Order 10480, as amended (E.O. 10480), and Defense Mobilization Order 3 (DMO 3) (44 CFR 322), provide for the delegation of authority to the Secretary of Commerce for administration of priorities and allocations functions under the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*), for materials and facilities not specifically delegated to other agencies. Section 602 of E.O. 10480 provides for redelegation of this authority.

2. Section 901 *et seq.* of E.O. 11490 provides for the delegation of authority to the Secretary of Commerce for preparing national emergency plans and developing preparedness programs covering the production and distribution of all materials and the use of all production facilities, except those that are specifically assigned to, or under the jurisdiction of, other agencies. Such an exception is provided for the production and related distribution of minerals. Section 701 *et seq.* of E.O. 11490 provides for the delegation of this authority to the Secretary of the Interior.

3. Section 702(5) of E.O. 11490 defines the term "minerals" to mean:

* * * all raw materials of mineral origin * * * obtained by mining and like operations and processed through the stages specified and at the facilities designated in an agreement between the Secretary of Commerce as being within the emergency preparedness responsibilities of the Secretary of the Interior.

This Understanding implements this requirement.

4. The functions delegated by these authorities to the Secretaries of Commerce and the Interior have been redelegated by the Secretary of Commerce to the Director, Office of Industrial Resource Administration (OIRA), and by the Secretary of the Interior to the Director, Bureau of Mines.

C. Departmental Responsibilities

1. *Department of the Interior.* Schedule A to this Understanding contains a listing of mineral commodities and related facilities and materials. With respect to the mineral commodities listed in Column 1 of Schedule A, the Secretary of the Interior shall have emergency preparedness and mobilization responsibilities for the facilities listed in Column 2 of the Schedule, the production of materials by these facilities, and the distribution of the materials listed in Column 3 of the Schedule.

2. *Department of Commerce.* With respect to the mineral commodities listed in Column 1 of Schedule A, the Secretary of Commerce shall have emergency preparedness and mobilization responsibilities for all facilities other than those listed in Column 2 of the Schedule, for the production of materials by these other facilities, and for distribution of all materials not listed in Column 3 of the Schedule.

D. Delegation of Authority

1. Pursuant to the authority of section 602(b) of E.O. 10480, the Secretary of Commerce hereby delegates to the Secretary of the Interior with respect to the facilities and materials listed in Columns 2 and 3 of Schedule A, all the functions under the Defense Production Act of 1950, as amended (DPA), which are delegated or assigned to the Secretary of Commerce by or pursuant to the following sections of E.O. 10480:

(a) Section 201(a), as implemented by section 3(a) of DMO 3 (relating to exercise of priorities and allocations authority under Title I of the DPA);

(b) Section 301 (relating to development of measures for expansion of production of materials necessary for the national defense);

(c) Section 302 (relating to guarantees of loans or contracts in connection with the expediting of production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense, etc.);

(d) Section 312 (relating to recommendations for action under sections 302 and 303 of the DPA);

(e) Section 501 (relating to consultation with industry and making recommendations to the Director of the Federal Emergency Management Agency respecting voluntary agreements under section 708 of the DPA); and

(f) Section 602 (relating to the exercise of various general administrative functions under Title VII of the DPA).

2. This delegation shall be effective only with respect to the facilities and materials listed in Columms 2 and 3 of Schedule A.

E. Effective Date

This Memorandum of Understanding and Delegation of Authority supersedes the Agreement between the Secretary of the Interior and the Secretary of Commerce and signed by them on June 21, 1962, and the Delegation of Authority from the Secretary of Commerce to the Secretary of the Interior published in 32 FR 2462 on February 4, 1967; and shall take effect thirty (30) days after publication in the **Federal Register.**

Department of the Interior

Robert C. Horton,

Director, Bureau of Mines

Date: June 21, 1984.

Department of Commerce

John A. Richards,

Director, Office of Industrial Resource Administration

Date: June 20, 1984.

SCHEDULE A.—MINERAL COMMODITIES AND RELATED FACILITIES AND MATERIALS

1 Commodity	2 Facilities	3 Materials
Abrasives:		
Alumina:		
Fused	Processing plants	Ores.
Zirconia	Do	Do.
Corundum	Mines; crushing, sizing, washing, grading and concentrating plants	Do.
Diamond:		
Industrial	Mines; concentrating plants	Do.
Synthetic	Processing plants	Carbon.
Emery	Mines; beneficiation plants	Ores.
Garnet	Do	Do.
Grinding pebbles	Do	Do.
Grinding stones	Quarries; cutting plants	Crude stone.
Silicon carbide	Processing plants	Ores.
Tripoli and rottenstone	Mines; crushing, grinding, and grading plants	Crude tripoli, amorphous silica, rottenstone.
Aluminum	Bauxite mines; drying and calcining plants; alumina plants; reduction plants; secondary smelters; processing plants.	Crude, dried and calcined bauxite, alumina, aluminum-base scrap.
Antimony	Mines; concentrating plants; primary smelters; refineries; leaching plants	Ores, concentrates, residues, scrap.
Arsenic	Mines; concentrating plants; smelters; refineries	Do.
Asbestos	Mines; separation and classification plants	Ores.
Barium	Mines; beneficiating, grinding and grading plants	Ores, concentrates.
Beryllium	Mines; concentrating and grinding plants; refineries	Do.
Bismuth	Mines; concentrating plants; smelters; refineries	Ores, concentrates, base bullion, residues.
Boron	Mines; wells; refineries	Ores, brines.
Bromine	Plants recovering bromine	Bitterns, brines.
Brucite	Mines; magnesium compound recovery and burning plants	Ores.
Cadmium	Concentrating plants; smelters; refineries	Ores, concentrates, residues.
Calcium:		
Compounds	Brines and synthetic chemical processing plants	Brines.
Metal	Processing plants	Crude materials.
Cement	Blending, sintering, and grinding plants	Limestone, clay, sand, gypsum, iron-containing materials.
Cesium	Mines; concentrating plants; extraction plants	Ores, concentrates, residues, solutions.
Chromium	Mines; processing plants	Ores, concentrates, additives.
Clays:		
Kaolin	Mines; drying, grinding, calcining and concentrating plants	Ores.
Ball clay	Mines; drying, calcining, shredding and grinding plants	Do.
Bentonite	Mines; drying, activating, grinding, concentrating and sizing plants	Do.
Fuller's earth	Mines; drying, calcining, activating, grinding and screening plants	Do.
Fire clay	Mines; drying, calcining, concentrating and grinding plants	Do.
Common clay and shales	Mines; beneficiation plants; expanding plants	Crude common clay, shale.
Cobalt	Mines; concentrating plants; leaching plants; refineries	Ores, concentrates, matte, slurries, in-process oxides, smelter anodes.
Columbium	Mines; dredges; processing plants	Ores, slags, additives.
Copper	Mines; concentrating plants; leaching plants; electrowinning plants; smelters; refineries	Ores, scrap, concentrates, precipitates, matte, speiss, blister, smelter anodes.
Cryolite	Mines; concentrating and grading plants	Ores, concentrates.
Diatomite	Mines; beneficiation plants	Crude materials.
Dolomite	Mines; compounds recovery and burning plants	Ores.
Feldspar	Mines; grinding, concentrating and grading plants	Do.
Ferroalloys	Plants; furnaces	Ores, concentrates, metallic additives.
Fluorspar, natural and synthetic	Mines; processing plants	Ores, concentrates, hydrofluosilicic acid.
Gallium	Refineries; processing plants	Concentrates, residues.

SCHEDULE A.—MINERAL COMMODITIES AND RELATED FACILITIES AND MATERIALS—Continued

1 Commodity	2 Facilities	3 Materials
Gem stones	Mines; concentrating plants	Ores.
Germanium	Refineries	Concentrates, residues.
Gold	Mines; concentrating plants; leaching and precipitation plants; smelters; refineries	Ores, concentrates, intermediate smelter products, scrap.
Graphite, natural and synthetic	Mines; beneficiating and processing plants	Ores, carbon.
Greensand	Mines; concentrating plants	Ores.
Gypsum	Mines; crushing and calcining plants	Crude gypsum.
Hafnium	Mines; concentrating plants; reduction plants	Ores.
Helium	Processing plants	Helium-rich natural gas.
Ilmenite	Mines; concentrating plants; processing plants; grinding plants	Ores, concentrates.
Indium	Refineries; leaching plants	Concentrates, fume, dusts, residues, slags.
Iodine	Mines; concentrating plants; wells	Ores, brines.
Iron	Mines; concentrating plants; agglomerating plants; prereduction plants; blast furnaces; crude steelmaking facilities.	Ores, concentrates, direct-reduced materials, scrap, pig iron, additives.
Iron oxide pigments, natural and synthetic	Mines; beneficiating and processing plants	Ores, additives.
Kyanite, andalusite, sillimanite, and dumortierite	Mines; concentrating and calcining plants	Do.
Lead	Mines; concentrating plants; smelters; refineries; leaching plants	Ores, concentrates, base bullion, residues, scrap.
Limestone (lime) and marl	Mines; quarries; crushing and grinding plants; kilns and lime plants	Crushed limestone, marl.
Lithium	Mines; concentrating plants; brine-processing plants	Ores, brines.
Magnesium	Mines; processing plants	Do.
Manganese	Mines; concentrating plants; agglomerating plants; leaching plants	Ores, concentrates, agglomerates.
Mercury	Mines; concentrating plants; leaching plants; electrolytic plants; retorts and furnaces	Ores, concentrates, scrap.
Mica	Mines; beneficiation plants	Crude mica.
Molybdenum	Mines; concentrating plants; processing plants	Ores, concentrates.
Nickel	Mines; concentrating plants; leaching plants; smelters; refineries	Ores, concentrates, matte, slurries, in-process oxides, smelter anodes.
Nitrogen (fixed)	Processing plants	
Olivine	Mines; concentrating plants	Ores, concentrates.
Perlite	Mines; grinding and screening plants; expanding plants	Crude perlite.
Phosphate rock	Mines; beneficiation plants	Ores, concentrates.
Platinum-group metals	Mines; concentrating plants; refineries	Ores, concentrates, residues.
Potash	Mines; concentrating plants; processing plants; refineries	Ores, concentrates, brines.
Pumice	Mines; crushing, drying, screening and grading plants	Ores.
Quartz crystal	Mines; grading plants	Do.
Rare-earth metals	Mines; beneficiating and processing plants	Ores, concentrates.
Refractories	Processing plants	Ores.
Rhenium	Refineries; processing plants	Ores, concentrates.
Rubidium	Mines; concentrating plants; extraction plants	Ores, concentrates, residues.
Rutile	Mines; concentrating plants	Ores, concentrates.
Salt	Mines; salt wells; processing plants	Crude materials.
Sand and gravel	Pits; washing and grading plants	Crude sand and gravel.
Selenium	Refineries	Residues, slimes, scrap.
Silicon	Furnaces; metal plants	Metallic additives, silica.
Silver	Mines; concentrating plants; smelters; refineries; leaching plants	Ores, concentrates, intermediate smelter products, scrap.
Slag (iron and steel)	Slag processing facilities	Furnace wastes.
Slate	Quarries; splitting, milling, crushing and grading plants	Crude slate.
Sodium compounds	Mines; brine wells; refineries; synthetic soda ash plants	Natural and synthetic minerals, brines.
Stone:		
Crushed	Quarries; crushing and grading plants	Broken stone.
Dimension	Quarries; milling and grading	Block stone.
Staurolite	Mines; concentrating plants	Ores.
Strontium	Do	Do.
Sulfur	Mines; wells; processing plants	Ores, gases.
Talc, soapstone and pyrophylite	Mines; crushing, grinding, screening and concentrating plants	Ores.
Tantalum	Mines; dredges; concentrating plants; processing plants	Ores, concentrates, slags, scrap, residues.
Tellurium	Refineries	Residues, slimes.
Thallium	Do	Concentrates, residues.
Tin	Mines; concentrating plants; smelters; refineries; processing plants	Ores, concentrates, residues, scrap.
Titanium	Mines; concentrating plants; processing plants	Do.
Thorium	Non-energy processing plants	Ores and compounds.
Tungsten, metal and compounds	Mines; concentrating plants; reduction plants; processing plants	Ores, concentrates, brines, scrap.
Vanadium	Mines; concentrating plants; leaching plants; reduction plants	Ores, concentrates, residues, slags, metallic additives.
Vermiculite	Mines; beneficiating plants; processing plants	Crude vermiculite.
Wollastonite	Mines; concentrating plants	Ores.
Zeolites	Mines; processing plants	Do.
Zinc	Mines; concentrating plants; roasting plants; smelters; electrolytic plants	Ores, concentrates, calcines, scrap, fume, residues.
Zirconium	Mines; concentrating and reduction plants	Ores, scrap.

Appendix III to Part 350—Form ITA-999; Request for Special Priorities Assistance

OMB No. 0625-0015

FORM ITA-999
(REV. 7-84)

U.S. DEPARTMENT OF COMMERCE
INTERNATIONAL TRADE ADMINISTRATION

REQUEST FOR SPECIAL PRIORITIES ASSISTANCE
(TO BE FILED WITH SPONSORING GOVERNMENT AGENCY)
READ INSTRUCTIONS ON REVERSE SIDE
(Typewrite or print in ink)

No priorities assistance may be granted unless a completed application form has been received (50 U.S.C. App. Sec. 2155). Any information furnished is deemed confidential pursuant to 50 U.S.C. App. Sec 2155(e).

FOR ITA USE ONLY

Case No.

Received

Routed to

1. TO: *(Fill in name and address of appropriate Sponsoring Govt. Agency)*

2. a. Applicant's name and complete address *(Street, City, State and ZIP code).*

b. Telephone No. *(Include Area Code)* ____________

c. Contact's Name ____________

3. Name and address of Applicant's customer.

4. Purchase order or contract number of Applicant's customer.

Date ____________

5. Rating on customer's purchase order.

6. Date Applicant accepted customer's purchase order.

7. If known, identify the Government program, end product, and contract number for which Applicant's item(s) is required by customer.

8. Description of item(s) to be delivered or service rendered by Applicant through use of item(s) shown in (10).

9. How will item(s) shown in (10) be used? *(Check)*
☐ As Production Material ☐ For Construction Project
☐ As Capital Equipment ☐ As Maintenance, Repair and Operating Supplies

10. ITEM(S) FOR WHICH APPLICANT REQUESTS ASSISTANCE

Indicate quantity *(Lbs., ft., pcs.)* (a)	Description *(As appearing in Applicant's purchase order with additional information, such as: model, part, die number, etc.)* (b)	Approximate dollar value of quantity shown (c)

11. a. Applicant's purchase order number to Supplier and date. *(Attach copy and all amendments and change orders)*

b. Rating on Applicant's purchase order. If none, so state.

c. Date Applicant's purchase order accepted by Supplier. *(Attach copy of acceptance)*

12. a. Supplier's name and complete address. *(Street, City, State and ZIP Code)*

b. Contact's name ______

c. Telephone number ______ *(Include Area Code)*

d. Supplier's shop order number.

e. If Supplier is an agent or distributor, give producer's name and address. *(Provide name and telephone number, including Area Code, of person to contact and supplier's purchase order number, if known)*

13. Original Shipment Schedule of Item(s) shown in 10 — Supplier to Applicant

a. Applicant's Original Shipment Requirement	Month Year							
	No. of Units							Total units
b. Supplier's Original Shipment Promise	Month Year							
	No. of Units							Total units

Current Shipment Schedule of Item(s) shown in 10 — Supplier to Applicant

c. Shipment(s) Now Required by Applicant	Month Year							
	No. of Units							Total units
d. Supplier's Present Shipment Promise	Month Year							
	No. of Units							Total units

USE CONTINUATION BLOCK OR SEPARATE SHEET, IF NECESSARY, FOR ANSWERS TO 14, 15 AND 16 BELOW

14. Reasons given by Supplier for inability to meet Applicant's required shipment date(s), including interfering rated orders or programs, if known.

15. List at least two other suppliers contacted. *(If none contacted, explain why)*

Date (a)	Name and complete address (b)	Best quoted shipment date(s) and other pertinent data (c)

16. Explain the effect of the delay in receipt of item(s) in (10) on the delivery commitment for item(s) in (8); i.e. production stoppage, shipment delays, etc. Describe the attempts to resolve the problems and give specific reasons why special priorities assistance is necessary.

17. a. Is quantity shown in 10(a) entire amount on purchase order listed in 11(a)? ☐ Yes ☐ No

b. Is the same item(s) also on order from another supplier? *(If "yes," explain)* ☐ Yes ☐ No

c. Does the Applicant have an inventory of the Item(s) shown in 10? ☐ Yes ☐ No

d. If answer to (c) above is yes, state number of days of production the inventory will support. ______

e. State minimum leadtimes. *(Number of days the item(s) in 10 must be received before applicant can ship to customer)* ______

CERTIFICATION — The undersigned certifies that the information contained in items (2) to (17) of this form, and as any information attached, is correct and complete to the best of his or her knowledge and belief.

______ Name of applicant

______ Signature and typed name of authorized official

______ Date

______ Title

The U.S. Code, Title 18 *(Crimes and Criminal Procedure)*, Section 1001, makes it a criminal offense to make a wilfully false statement or representation to any department or agency of the United States as to any matter within its jurisdiction. The individual company information reported on this form is for use in defense mobilization activities. The unauthorized publication or disclosure of individual company information by Government personnel is prohibited by law, and such personnel are subject to fine and imprisonment for unauthorized disclosure.

USCOMM-DC 84-22042

FOR USE OF GOVERNMENT AGENCY ENDORSING THIS REQUEST (FIELD)

18. a. Actions taken to attempt resolution of applicant's problem.	By whom	Date
b. Estimate of realistic shipment date.		
c. Coordination of other action taken.	By whom	Date

FOR USE OF GOVERNMENT AGENCY SPONSORING THIS REQUEST (HEADQUARTERS ONLY)

19. a. Name of Sponsor.	**b.** Sponsor's address.	
c. Sponsor's Case Reference No.	**d.** Name of person handling case in Sponsor's office.	Telephone No.
e. Sponsor's program or service to be benefited by Applicant's product or service *(Item (7) on first page).*	**f.** Recommendation.	

g. Statement of urgency of particular program or service and Applicant's part in it. Specify the extent to which failure to obtain requested assistance will adversely affect the program or service.

h. Signature.

Signature of sponsor's authorized official | Title

Type name of authorized official | Date

INSTRUCTIONS FOR FILING FORM ITA-999

REQUESTS FOR SPECIAL PRIORITIES ASSISTANCE MAY BE FILED:

a. when the regular procedures of the Defense Priorities and Allocations System (DPAS) will not obtain delivery of item(s)[1] in time to meet required delivery schedules in support of authorized national defense programs;

b. to request assistance in placing rated orders; and

c. to request authority to use a priority rating. Applicants for priority rating authority should complete only sections 1, 2, 10, 11, 12, 16, 19, and the Certification of this form.

REQUESTS FOR ASSISTANCE MUST BE TIMELY AND MUST ESTABLISH:

a. the urgent defense related need for the item(s) covered by the associated rated order; and

b. that the applicant has exercised reasonable effort to resolve the problem.

WHERE TO FILE — Each ITA-999 must be sponsored by a Government Agency.[2] Completed forms should be filed with the Government agency having jurisdiction over the contract.

Department of Defense — File with local Defense Contract Administration Services Office or plant representative.

Department of Energy (DOE) — File with appropriate Field Office.

General Services Administration — File with the contracting officer in the Regional Office or the Headquarters Office in Washington, D.C., whichever issued the contract.

If the appropriate agency cannot be determined from the applicant's customer, this form may be filed with the **Priorities and Allocations Division, Room 3876, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.**

COPIES TO BE FILED — The applicant should file an original and five (5) copies of this form with the appropriate Government Agency.

APPLICATIONS FOR PRIORITY RATING TO OBTAIN CAPITAL/PRODUCTION EQUIPMENT — Prime and subcontractor applications for a priority rating to obtain capital/production equipment for the performance of a rated order or contract for a Department of Defense procurement must file on Department of Defense Form DD-691, "Application for Rating for Production Equipment," in accordance with the instructions on that form.

SPECIAL INSTRUCTIONS

If the space in any block is insufficient for a clear and complete statement of the information called for, use the "continuation" space provided or a separate sheet or letter with a copy attached to each copy of the form.

Entries in block 10 must be restricted to those appearing on a single purchase order of the applicant, except in those instances where "special priorities assistance" is requested for additional purchase orders that have been placed with the same supplier for the same item(s) in which case such purchase orders may be combined on one application; however, each purchase order number must be identified and the quantities and rating on each purchase order must be shown separately.

If disclosure of the use to which the particular customer will put Applicant's product is prohibited by security regulations, give a general description in block 10 and enter "classified."

[1] "Item" is defined in the DPAS as any raw, in-process, or manufactured material, article, commodity, supplies, equipment, component, accessory, part, assembly, or product of any kind, technical information, process, or service.

[2] "Government Agency" means the Department of Defense, the Department of Energy, General Services Administration, or other Government agencies so designated.

CONTINUATION

(Identify each statement with the block number concerned)

FORM ITA-999 (REV. 7-84) **Please sign certification on face of form** USCOMM DC 84-22042

BILLING CODE 3510-25-C

Appendix IV to Part 350—Memorandum of Understanding on Priorities and Allocations Support Between the U.S. Department of Commerce and the Canadian Department of Supply and Services

A. Purpose

Since 1950, the United States and Canada have been assisting each other on priorities and allocations for programs important to the defense of both nations. Details on the implementation of that assistance were spelled out in the U.S. Defense Priorities System Regulation No. 2 (DPS Reg. 2). Operations of the Priorities and Allocations System between Canada and the United States (15 CFR 351). The Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350) supersedes the Defense Materials System and Defense Priorities System regulations (15 CFR 330–351), including DPS Reg. 2. While the revised regulation addresses the procedures for obtaining priorities and allocations support from the United States and Canada, it does not fully detail the working relationship between the United States and Canada. Accordingly, the following Memorandum of Understanding is set forth between the U.S. Department of Commerce and the Canadian Department of Supply and Services.

B. General

1. The Office of Industrial Resource Administration, U.S. Department of Commerce (DOC), is the United States point of contact for the Canadian government with respect to priorities and allocations.

2. The Supply Information and Data Management Branch, Canadian Department of Supply and Services (DSS), is the Canadian point of contact for the U.S. government with respect to priorities and allocations.

C. Priority Rating Authority

1. DOC will authorize the DSS to use priority ratings, including those for the procurement of controlled materials, in the United States in support of the following programs authorized by the Federal Emergency Management Agency:

D1—Canadian Military Programs
D2—Canadian Production and Construction
D3—Canadian Atomic Energy Program

2. DOC must receive requests for priority rating authority, by program, at least ninety days in advance of the calendar quarter in which the authorization is required. Requests with respect to controlled materials requirements must be received at least 240 days in advance of the calendar quarter in which authorization is required.

D. DX Authority

DSS may authorize the use of the "DX" rating symbol for procurements in the United States which are in support of U.S. "DX" rated programs.

E. Items Which Will Not Receive Priority Rating Authority

Priority ratings may not be used for procurements in the United States of (1) civilian items for resale in Military Exchanges or the packaging for such items; (2) material purchased from exclusively retail establishments; (3) direct procurement of those Federal Supply Classification classes, groups, or items specified in Attachment A to this Understanding, unless those items are to be used as production material for an authorized program; or (4) procurement of items to be used primarily for administrative purposes, such as for personnel or financial management.

F. Special Priorities Assistance

1. DOC will provide special priorities assistance as needed to Canadian procurements in the United States which are in support of D1, D2, and D3 programs when requests for such assistance are sponsored by DSS.

2. DSS will provide assistance to United States procurements in Canada which are in support of authorized programs when requests for such assistance are sponsored by DOC.

G. Forms and Reports

1. Canadian requests for special priorities assistance from the United States will be submitted to DOC on Form ITA–999, "Request for Special Priorities Assistance".

2. Requests for priority rating authority will be submitted to DOC on Form DSS–1451–1, "Application for U.S. Priority Rating Covering Importation of Quarterly Requirements of Materials from the United States", on Form DSS–1451–2, "Application for U.S. Priority Rating Covering Specific Materials", or other forms as may be established by DSS.

3. DSS will report monthly on the number of rating authorizations and their dollar value against DOC rating authorizations during the previous month.

4. DSS will report, two months following the close of each calendar quarter, the number and quantity of controlled materials allotments issued against DOC authorizations for each program during that quarter.

5. United States requests for assistance from Canada will be submitted to DSS by letter.

H. Compliance

1. DSS will ensure that Canadian Government personnel and Canadian defense contractors are in compliance with the provisions of the DPAS when placing rated orders in the United States, including those for controlled materials.

2. DOC will ensure that U.S. Government personnel and U.S. contractors are in compliance with the provisions of the DPAS when placing rated orders in Canada, including controlled materials.

3. The DSS will inform DOC of any alleged violations of the DPAS of which it may become aware.

I. Training

1. The DSS will develop and implement training programs on the DPAS for appropriate Canadian Government procurement and contract administration personnel and contractor personnel.

2. DOC will develop and implement training programs on the DPAS for appropriate U.S. Government procurement and contract administration personnel and contractor personnel.

3. DSS and DOC training programs shall be coordinated to ensure the conduct of a comprehensive program and to minimize duplication.

J. Effective Date

This Memorandum of Understanding shall take effect thirty (30) days after publication of the DPAS in the U.S. Federal Register.

Canadian Department of Supply and Services
Peter Smith,
Assistant Deputy Minister, Operations
Date: June 26, 1984.

U.S. Department of Commerce
Walter J. Olson,
Deputy Assistant Secretary, Export Administration
Date: June 21, 1984.

Attachment A—Federal Supply Classification Classes, Groups, and Items Not Eligible For Priority Ratings

Group

35 Services and trade equipment—except:
3510 Laundry and dry cleaning equipment
3520 Shoe repairing equipment
3530 Industrial sewing machines and mobile textile repair shoes
3540 Wrapping and packaging machinery
71* Furniture
72* Household and commercial furnishings and appliances—except:
7240 Household and commercial utility containers
73* Food preparation and serving equipment—except:
7310 Food cooking, baking and serving equipment
7320 Kitchen equipment and appliances
7360 Sets, kits, and outfits: food preparation and serving
74 Office machines, visible record equipment, and data processing equipment**
75* Office supplies and devices
77* Musical instruments, phonographs and home-type radios
78* Recreational and athletic equipment
79 Cleaning equipment and supplies
85* Toiletries
87 [1] Agricultural supplies
89 Subsistence
91* [1] Fuels, lubricants, oils, and waxes—except:
9135 Liquid propellant fuels and oxidizers, chemical base
9150 Oils and greases: cutting, lubricating, and hydraulic
9160 Miscellaneous waxes, oils and fats
94* Non-metallic crude materials—except:
9420 Fibers: vegetable, animal and synthetic
99* Miscellaneous

Class

7630 Newspapers and periodicals
7660 Sheet and book music
8325 Fur materials
8425 Underwear and nightwear, women's
9610 Ores

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*DOC will consider requests for special priority rating authorization in the procurement of these items.

**This Group does not include general purpose automatic data processing equipment, software, supplies and support equipment (see Group 70).

[1] Only those items subject to DOC authority as delegated by E.O. 10480.